GENERAL AND REVENUE SECRETARIAT.

( )

NOTES.

Revenue File No. 38

FILE HEADING.

Appeal against order acquittal of 6 accused in Sulikalle Murder case Bangalore S. C. No 7 of 27 —28

FROM D. M. Bangalore

No. 9502/27-28 Dated 14/1/28 Received 17/1/28

Diary No.	Enclos.	Spare copies	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards opinion of Govt Advocate in the matter of filing an appeal against order acquittal of the accused in Bangalore S. C. No 8 of 27—28 and requests sanction of Govt thereto & that Govt Advocate may be instructed

NOTES AND ORDERS.

1) Submitted for perusal. The 6 th accused have strong ill will towards the deceased and the evidence of P. Ws 1 & 2 was believed by the Court and conviction of the 5 accused is based on it. But the benefit of doubt has been given to 6 th accused although on the same evidence the Mers have been convicted. There appears to be some weakness in the part of the judgment. It is for orders whether appeal may be filed and whether instructions may issue to Govt Advocate. Mahajan The records are not before the Govt

18/1/28

NOTES—F... Sheet.

Mag L

General and Revenue Secretariat. | File No. of 192 .

Serial No.

The conviction of the 1st five accused persons is based upon the direct evidence of two witnesses — Helara (PW 15) and Kadeporda (PW 16). Helara was in the company of the deceased when the murder was committed. Kadeporda is the deceased's nephew & lives in the deceased's house. The deceased did not return home by the supper hour on the night of the occurrence and his wife who went in search of him was attracted to the scene by the cry of murder. Both these witnesses have deposed that the 6th accused was present when the other accused persons struck the deceased dead with choppers & small axes. The former adds that he fled for his life on account of the 6th accused having incited the 3rd accused to attack him and the latter witness in the evidence of is ~~the effect~~ that "the 6th accused was prompting the other accused persons to beat" the deceased. From the history of the case related in the judgment it is clear that all the six accused are persons well known to these two

NOTE—Contn. sheet.

General and Revenue Secretariat. | File No. of 192 .

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witness
and there can be no reason for
any doubt as to the identification
of the accused by them. If these
two persons can be relied upon
as for convicting the 1st five
accused persons as the perpetrators
of the deed, there is no apparent
reason why their testimony as to
the 6th accused's presence & identification
should be rejected as open to doubt.
No doubt on the question of identification
of the accused can arise as stated
above. The reasons stated by the
Sessions Judge for giving the 6th
accused the benefit of the doubt are —

(a) that the Patel's report (Ex-P-11)
mentions the Channegowda
as one of the culprits
and that the 6th accused
who is Channegowda of
Aravanahalli is not to
described in this report.

(b) that according to the Patel's
account the witness named
the 6th person as Channegowda
of Medigere,

(c) that according to two other

NOTE—Contn. sheet.

WD 0324 -GPB—60,000--24-5-27

3787

App. F. III—2]

General and Revenue Secretariat. | File No. of 192

Serial No.

his behalf were examined & is entirely disbelieved by the Court. All things considered, there appear to be very strong grounds for appealing against the order of his acquittal.

Sgd) 10/2

As Govt Advocate had stated that he have no opinion on the case without looking into the records, I sent for the records for perusal before recording my opinion.

From the records it is clear that the conviction of the accd Nos. 1 & 5 is solely based on the direct testimony of Halawa Goonda & Kadagoonda & on the circumstantial evidence.

Both documentary & oral testimony points to the conclusion that there was ill-will between the deceased & all the accused.

The reasons that induced the Judge to convict the accd Nos 1 & 5 equally apply to the case of the 4th accd.

The arguments of the Judge for giving the benefit of doubt to the 4th accd are not [illegible]

NOTE—Contn. sheet

WD 0324—GPB—60,000—24-5-27

37 367/1

App. F. III—2]

General and Revenue Secretariat. | File No. of 192

Serial No.

The Judge seems to attach some value to the evidence of the Patel whose evidence cannot unfliciitly be relied on.

If Hilavi's evidence is believed there is a good case for the prosecution against the 6th accd

As the next judge believes his evidence, & has his grounds for entertaining any doubt regarding the guilt of the 6th accd do not seem to be tenable, an appeal may perhaps be preferred

1st Mem.

8/2
17.2.28

6781/16/2

This seems an instance of a good case being spoiled by adding untrue matter, & but as opined by Govt Adv we have to file an appeal. We may hope that on account of this admission of error, the others also will not escape

(The Chances seem to be that 6th accd instigated but was not present as it is unlikely that S. A. made a mistake.)

Ito
20/2/28

8/20/2

Law
21/2

No 664 d 18-2-1928,
From Registrar-cum-Crown Court requests return of records & drafts duly returning the records and (sanction filing of appeal.
Melek
21/2/28
two drafts used for appl.

NOTE—Contn. sheet

WD 0324—GPB—60,000—24-5-27

Secy)
22/2
22/2
appd
21/2.

Lethbalh ... dencase 1/13 D

App. F. III—2]

General and Revenue Secretariat. Law File No. 38 of 1927

Serial No.	
1	To the Govt Advocate The Bangalore No. P 4805-6 dt 22.2.28. Directs the Govt Advocate to prefer an appeal against the order of acquittal of the 6th accused
6	To the Regr Chief Court No P 4807 dt 22/2/28 Returns the ord.
9	Letter No: 883 dated 20/23 June 1928 from the Govt advocate - sending the Judgment of the Chief Court in the appeal preferred by Govt against the acquittal of the 6th accused in Bangalore S.C. 30 of 27.28. The acquittal was set aside & the accused was convicted under sec 302 I.P.C & sentenced to transportation for life — A memorial for mercy was filed by the accused & the same was rejected by Govt (Vide the linked file). Submitted for perusal Dnp 10/7/28 Secy) 11/7

Note—Contn. sheet

Law 11/7

WD 0324—GPB—60,000—24-5-27

General and Revenue Secretaria | File No. of 192

Serial No.

First Murderers remarks
Legal Remembrancer for an early N.
(Jails) K. C.
22.5.28

11 Letter No: 6994 Dated 22.5.28 to the Registrar, Chief Court calling for records in Bangalore Sessions Case No: 3 of 27-28 with copy of the judgment of the Chief Court

12 Letter No: 914 Dated 28.5.28 from the Registrar, Chief Court forwarding the records called for

I called for the entire records with a view to find out the circumstances under which the case has been launched and the evidence let in by the prosecution. I have carefully perused the entire records.

The case for the prosecution is in brief, that all the six accused have conspired together to murder the deceased and that they committed murder on the evening of 10th June at 8-15 or 8-30 near Settihalli Railway Station. All the accused have been convicted upon the evidence of a single witness Helva who is alleged to have been present at the time of murder. The prosecution have not adduced any evidence to prove the conspiracy among the six accused. This is conceded by the Honourable Judges of the Chief Court who at page 14 of their judgment observe

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18-4-28

General and Revenue Secretariat. | File No. of 192 .

Serial No.

as follows:--

"There is however no direct evidence to prove any conspiracy among the 6 accused, except that they belong to the faction opposed to that of the deceased and had a grudge against him."

I shall only deal with the memorialist, the 6th accused. The evidence of Helva, Prosecution ~~witness~~ 15th witness on whose evidence alone the conviction is based states as follows ~~xxxx~~ after referring to the part played by the other accused,-

"Then the 6th accused Chenne Gowda asked the others to give me blows. Then the 6th accused was standing by the side of the 4th accused in the foot path. I saw him first when he said that I should be beaten. The 3rd accused chased me."

Here it should be noted that the witness does not say that Chenne Gowda had any weapon in his hand, neither does he say that he instigated the other accused to beat the deceased, nor did he say that Chenne Gowda took part in the crime. The 6th accused is stated to have been present at a foot path, not even near the place where the deceased was standing and was beaten to death. Beyond this evidence and of the evidence of enmity there is no direct or indirect evidence to prove that the memorialist had conspired with the other accused nor he followed them to the scene of occurrence. The evidence let in by the prosecution to prove that he was present

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18.4.28

General and Revenue Secretariat. File No. of 192 .

Serial No.

commit murder. It sometimes happens that the persons might meet with a desire to give a thrashing to their enemies. But when one of the assailants is provoked he might in self-defence commit murder. Under these circumstances it is not justifiable to draw an inference that they all met for the purpose of committing murder. ~~However I will examined carefully the materials before the Judges to draw an inference in question with special reference to the memorialist.~~ They say that all of them met at an unusual hour in a secluded spot. On this point there is conflicting evidence in respect of the presence of the memorialist. (6th accused). Helva is directly contradicted by prosecution witnesses 24 and 25. Chick Putte Gowda says that when they went to the spot immediately on hearing the cries Helva mentioned the names of accused Nos. 3, 4 and 5 and S.N.Putte Gowda also says that he mentioned the names of accused Nos.3, 4 and 5 (vide page 10 of the Judgment of the Chief Court). These two witnesses are believed. Hence it follows that Helva's evidence is in the main contradicted by these witnesses and that the presence of Chenne Gowda, the memorialist, on the spot becomes doubtful. The part assigned to the 6th accused is that he asked the other accused to beat Helva the witness and not the deceased and there is no evidence that he was armed with any deadly weapon. Hence it is not clear how he can be charged for the murder of the deceased when there

It is necessary to examine in detail the material circumstances on which the Judges have relied for their inference

NOTE—Contn. Sheet.

WD 0774—GPB—30,000—18-4-28

General and Revenue Secretariat. | File No. of 192 .

Serial No.

is no evidence at all on record to prove that he either took part in the conspiracy or instigated the assailants to murder the deceased. The impression thus left in my mind after going through the records is that the prosecution has not taken the trouble of adducing independent evidence regarding the conspiracy and that they have worked up the case mainly on the evidence of Helva. It is quite possible that Helva might have been influenced a few hours later to add some more names to the list of assailants who committed the murder, especially when there were factions in the village as is proved by the evidence on record. It is also just possible to bring in the name of an influential person as an accused in the case. Much stress has been laid on the first information report. The first information report proceeds upon the information given by Helva. He is the source of information. Having regard to the fact that he mentioned the names of only three accused immediately after the occurrence as is proved by the prosecution witnesses and has not mentioned the name of the 6th accused and to the fact that the memorialist has been acquitted by the Sessions Judge and the omission of the name of the 6th accused in the Telegram which was sent two hours after the murder, it will not be safe to rely upon the evidence of Helva and convict the 6th accused for a serious offence like murder in the absence

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18-4-28

C 24/P

App. F. III—2]

General and Revenue Secretariat. | File No. of 192 .

Serial No.

of any evidence of conspiracy to murder. As the Government is not sitting in judgment over the Chief Court and as there are circumstances which justify interference on the part of Government under Section 401 of the Criminal Procedure Code, the Government may exercise their prerogative of mercy and reduce the sentence of transporation for life into one of imprisonment for a term of one or two years or remit the whole sentence.

1st Number

8/3.6.28

I

I the accused is a old
~~[illegible]~~, I agree that this is
a fit Case in wh. clemency should be
shown as proposed by L.P.
Please see my minute of 20/2
I do not express opinion but see cause
to differ the finding of the
Chief Court; & can show clemency
not on account of the man's age.

Lee
4/6/28

8/5/6.

6094
4/6

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18-4-28

General and Revenue Secretariat. | File No. of 192 .

Serial No.

In this case the memorialist Chenne Gowda (sixth accused) was acquitted by the Sessions Judge in the first instance. On the recommendation of the Government Advocate and the District Magistrate to prefer an appeal from the acquittal the Government called for and examined the records, and ordered that an appeal be filed. The reasons which weighed with Government for sanctioning the filing of an appeal are well set forth in the Law Secretary's note dated 17th February 1928.

The Chief Court admitted the appeal, set aside the acquittal and convicted the memorialist of the offence of murder and sentenced him, like the other five accused persons, to transportation for life. In these circumstances it would require very strong grounds indeed for Government to interfere with the course of justice.

The Law Secretary in his note dated the 3rd June 1928 has discussed the merits of the evidence and has now come to the conclusion that it would "not be safe to rely upon the evidence of Helva, and convict the 6th accused for a serious offence like murder in the absence of any evidence of conspiracy to murder". I have gone through the records of the case with some care and also discussed it with the Law Secretary. It is true there is no evidence of conspiracy, but this does not appear to be essential since the evidence is to the effect that the memorialist Chenne Gowda was actually present along with the first five accused at the scene

NOTE—Contn. sheet.

WD 0324 -GPB-60,000-24-5-27

General and Revenue Secretariat. | File No. of 192 .

Serial No.

of the murder. When Helva (P.W.15) an eye witness cried out, the memorialist Chenne Gowda called out to the other accused persons to catch hold of Helva. He was thus not a mere onlooker. but was one with the other accused in their actions. In the first report of the patel, sent perhaps within an hour and a half of the occurrence, the name of Chenne Gowda as well as the other five accused occurs. It is true that he is not mentioned as Avverhalli Chenne Gowda and that the Patel is now trying to make out that it was some other Chenne Gowda. This appears to be an after thought. The Law Secretary has noted that Helva mentioned only the names of three of the accused immediately after the occurrence; this is in accordance with the evidence of P.W.'s 24 and 25; but there are other witnesses (P.W.'s. 23 and 27) who state that Helva mentioned all the six accused. After all the documentary evidence (Patel's report made immediately after the occurrence) is the best evidence as to what names were really given out by Helva. The Law Secretary also refers to the omission of the name of the sixth accused in the telegram which was sent a few hours after the murder. This does not appear to be such a strong point, because no names whatever are given in the telegram. The trial (Sessions) Judge was deeply impressed with the evidence of Helva. "There is a ring of sincerity throughout his deposition", says the Judge, and he believes the whole of the evidence of Helva. That evidence gives as much justification

NOTE—Contn. sheet.

WD 0324 -GPB-60,000-24-5-27

General and Revenue Secretariat. | File No. of 192 .

Serial No. 13

To C Krishnamurti Esqr
Advocate, Bijapur
No P 148 Dt 6.7.28
States that Govt see no Spl Grounds for the interference in the case & that the Memorial is therefore rejected
To the Regr Chief Court
The Bijapur Central Jail
No P 149-150 Dt 6.7.28
Regd Copy of the above

B 12/7

NOTE—Contn. sheet.

WD 0324 -GPB—60,000—24-5-27

3478
P 27

No. Ge. Sor 27-28 21

Office of the District Magistrate,
Bangalore District,

Dated, Bangalore, the 14th January 1928.

From

Law 38-27-1

G.B. Heblikar, Esqr., B.A., LL.B.,
District Magistrate,
Bangalore District.

To

B. Nagappa, Esqr., Bar-at-law,
Secretary to the Government of Mysore,
Law Department, Bangalore.

Sir,

In forwarding herewith copy of letter No. 502 dated 12th January 1928 received from the Government Advocate, Bangalore, furnishing his opinion in the matter of filing an appeal to the Chief Court against the judgment of the Sessions Judge, Bangalore Division, acquitting the 6th accused Chennegowda in the Settihalli Murder Case (Bangalore S.C. No.3 of 27-28), I have the honour to request that you will be so good as to kindly obtain the sanction of Government therefor and to instruct the Government Advocate to file an appeal.

2. The Assistant Superintendent of Police, Railways and C.I.D., has been requested to furnish the Government Advocate with a certified copy of the judgment.

I have the honour to be,
Sir,
Your most obedient servant,

G B Heblikar

District Magistrate,
Bangalore District.

Letter No.502 dated 12th January 1928 from the Government Advocate in Mysore, Bangalore, to the District Magistrate, Bangalore.

With reference to your letter No.J.C. 502 of 1927-28 dated the 23rd November 1927, I have the honour to state that as the only record furnished to me being the Judgment of the Sessions Judge in Bangalore Sessions Case No. 3 of 1927-28 without the depositions of witnesses and Exhibits, I am obliged to base my opinion as to the advisability or otherwise of filing an appeal against the order of acquittal of the 6th accused Chenne Gowda - only on the rather scanty materials available in the judgment.

2. From the judgment it is clear that there are ample materials in the case to show that the 6th accused bore strong ill--will towards the deceased. His presence is spoken to by the two eye-witnesses P.Ws. 15 and 16, the former of whom says that the 6th accused who was standing near the 4th accused instigated the other accused persons to catch this witness and beat him and that the 3rd accused chased him accordingly. The latter (i.e., the 16th witness) swears that when the 4th accused was holding the deceased the 6th accused was inciting the other accused persons to beat him and that on the other accused persons so beating him the deceased fell down and that when the witnesses remonstrated, the 6th accused prompted the other to catch him.

3. This evidence has not only not been disbelieved by the court but on the other hand has been substantially acted upon and the conviction of the other five accused persons is based on it. It may also be noted that in para 9 of the judgment the Judge observes "To my mind it is clear that the accused persons 1 to 5 who had grudge against the deceased were used as tools by the 6th accused to accomplish the murder of the deceased in order to wreak his vengeance. They had concerted and made plans and were only waiting for a good opportunity". In view of this specific finding and of the fact that he has totally disbelieved the evidence of alibi adduced by the 6th accused it is surprising that the Judge has given this accused the benefit of the doubt. There is besides the circumstance that 2 out of the 3 Assessors have opined that

that the 6th accused is guilty.

4. The grounds for the decision of the court as regards the 6th accused are summarized in para 12 of the judgment. I do not consider that they are so strong as to take away the effect of the other evidence in the case.

5. The fact that the Trial Court has chosen to give this accused the benefit of the doubt is a strong point against us and an Appellate Court does not ordinarily interfere with a finding of acquittal. But in view of the fact that the conviction of the other 5 persons is also based almost entirely on the same materials - it would be some what dangerous for us to allow the decision as regards the 6th accused to remain unchallenged as it might be construed as our indirectly concedi that the court's conclusion is right, and as it would be open t the other accused persons to argue that they are also similarly entitled to the benefit of the doubt.

6. For the foregoing considerations I am afraid we have to file an appeal. In the event of Government directing the filing of an appeal, I shall require a certified copy of the Judgment in the Sessions Case and arrangements may be made immediately for securing a certified copy of the same.

"Copy"

District Magistrate,
Bangalore District.

APP. F. VI. Gl.]

UBJECT.....

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Section

File No.

Serial No. 2

Diary No. of letter replied to.....

No. 4054

To The D. M. Bangalore

General and Revenue Secretariat

( )

the *192*

Regarding proposed appeal against order of acquittal of 16 accused in Settihalli murder case Bangalore S.C. No 3/27-2

Date of issue 23/1/28

Signed by M. [illegible]

Sir,

With reference to your letter No 5-02/27-28 dt 14-1-28 requesting sanction of Govt for the proposed appeal against the order of acquittal of the 16 accused in the Settihally murder case, Bangalore S.C. No 3/27-28

I am directed to request that the records of this case may kindly be sent for reference and early disposal

List of enclosures.....

Copied by.....

Examined by.....

I have &c

Secretary

Law Dept

over

367/27

No. J. 502/27-28 Office of the District Magistrate,
Bangalore District,

Dated, Camp:Magadi, the 24th January 1928.

From G.B. Heblikar, Esqr., B.A., LL.B.,
District Magistrate,
Bangalore District.

To B. Nagappa, Esqr., Bar-at-law,
Secretary to the Government of Mysore,
Law Department.

Sir,

With reference to your letter No.P.4054/Law dated 23rd January 1928, I have the honour to state that the records in Bangalore S.C.No.3 of 27-28 have been submitted to the Chief Court by the Sessions Judge, with No.4150/372 dated 23rd December 1927.

I have the honour to be,
Sir,
Your most obedient servant,

District Magistrate,
Bangalore District.

A, P. F. VI. Gl]

SUBJECT.....

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Diary No. of letter replied to.....

Section

File No.

Serial No. 4

No. 74343

General and Revenue Secretariat

( )

the 192

To The Registrar, Chief Court

Date of issue 31/1/28

Sir

I am directed to request you to be so good as to forward, for reference, the entire records in Bengala Sessions Case no. 3 of 1927-28, which are stated to have been sent to you by the Sessions Judge, Bangalore Division, under his no. 4150/372 dt. 23-12-27.

I have

the honour

to be

Sir

Your obedient servant

Secretary to Govt.

Law Dept.

Signed by Mr Nes

List of enclosures.....

Copied by .....

Examined by .....

over

WD 0325—GPB—8 ,000—26-5-27

Telgm:
"JUSTICE"

URGENT.

3787/27

CHIEF COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

~~R.O.C.~~ Dis. No. 577 Crl.

Encl: Records

Bangalore 31st January 1928

From

T. SINGARAVELU MUDALIAR, Esq., B.A., B.L.,
~~A. Sreenivasaraghavachari, Esq., B.A., B.L.,~~
Registrar, Chief Court of Mysore.

To

B. NAGAPPA, Esq., Bar-at-Law.,
Secretary to Government,
Law Department, Bangalore.

Sir,

With reference to your letter No.P.4343/Law dated 31st instant, I have the honour to forward herewith - entire records in Bangalore Sessions Case No.3 of 27-28 on the file of the Sessions Judge, Bangalore Division - received for reference in Criminal Appeal No.51/27-28/ Criminal Referred Case No.3/27-28 on the file of this - court which stands adjourned to 13-2-28.

(Have the records been returned?)

I have the honour to be,
Sir,
Your most obedient servant,

~~for~~ REGISTRAR.

TKV.

4113
p87

Telgm:
"JUSTICE"

CHIEF COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

Bangalore...18th...February...***1928*** .

R.O.C. No. 664 Crl.

416

From

T. SINGARAVELU MUDALIAR,
~~A. Sreenivasaragavachari~~, Esq., B.A., B.L.,
Registrar, Chief Court of Mysore.

To

B. NAGAPPA, Esq., Bar-at-Law,
Secretary to the Government of
His Highness the Maharaja of Mysore,
Law Department, BANGALORE.

Sir,

In continuation of this office No. 577/Crl., dated 31st January 1928, forwarding records in Bangalore Sessions Case No. 3 of 1927-1928 on the file of the Sessions Judge, Bangalore Division, I am directed to state that the connected Criminal Appeal No.51 of 27-28/Criminal Referred Case No. 3 of 1927-28 on the file of this Court, stands adjourned to the 24th instant and that the case is ready for hearing and to request that the records may kindly be returned.

I have the honour to be,
Sir,
our most obedient servant.

M Srinivasamurthy
For Registrar.

nj

/SM.

A. P. F. VI. G1]

2/15

SUBJECT.....

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Section

File No.

Serial No.

Diary No. of letter replied to.....

No. 4807 Secrets

General and Revenue Secretariat

( )

the *192*

To The Registrar
Calicut

Date of issue 22/2/28

Signed by W N S

Sir

I am directed to return herewith records in Bangalore Session's Case No 3/1922-28 as requested in your letter No 664 d 18-2-28

I have

the Sessions Judge
Asst
4/3

Copied by .....

Examined by .....

over

G.R.S. VI G 341

SUBJECT.....

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Diary No. of letter replied to.....

Section

File No.

Serial No. 7

General and Revenue Secretariat

( )

, *the* 192 .

Proceedings of the Government of His Highness the Maharaja of Mysore

Date of issue..... 22/2/28

Signed by..... M' Rs

Read— Letter no J.C 502 27-28 d 14-1-28 from the Dist Mag Bangalore, forwarding the opinion of Govt Advocate and requesting sanction of Govt to file appeal against the order of acquittal of the accused in Bangalore Sessions Case no 3 of 27-28

2 Records re C.C no 3 of 27-2 Bangalore

May this be

i Printed ?

ii treated as a standing order ?

iii published in the Gazette, English Part ?

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette, Kannada Part ?

Order Thereon No.

Sanctioned the Govt Advocate is requested to prefer an appeal ~~under S. 417 Cr Procedure~~ against acquittal of the accused in the case referred to

Under Sec 417 Cr Procedure

Sd/- Secy to Govt

To Dist Mag Bangalore with complaints for information

~~To Govt to G.A requesting necessary action~~

To the Govt Advocate Dist Bangalore

6130

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

In reply please refer to
No. 883

Tel. Address :
"JURIST," Bangalore.

Bangalore 20th June 1928.

2307

FROM

K. SHANKARANARAYANA RAO, ESQ., M.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

To

The Secretary to the Government
of H. H. The Maharaja of Mysore,
Law Department, BANGALORE.

SIR,

With reference to Government Order No.P.4805-6/Law. 38-27 dated the 22nd February 1928, I have the honor to state that Criminal Appeal No.72 of 1927-28 on the file of the Chief Court of Mysore, (Appeal filed against the order of acquittal passed against the 6th accused in Bangalore Sessions Case No. 3 of 1927-28) came on for final disposal on the 9th April 1928, and Judgment was pronounced allowing the appeal filed by Government. The order of acquittal passed by the Lower Court was set aside and the accused was convicted under Sec.302 I.P.C.,

and

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Monday the 9th day of April 1928.

GOVT. ADVOCATE'S OFFICE. 28 MAY 1928 BANGALORE.

P r e s e n t

HON. JUSTICE C.S. DORASWAMI IYER, CHIEF JUDGE,

and

HON. JUSTICE G. SREENIVASA IYER.

Petition of Criminal Appeal No.51 of 1927-28/Criminal Referred Case No.3 of 1927-28 against the convictions and sentences passed by the Sessions Judge of Bangalore under Section 302 of the Indian Penal Code in Bangalore Sessions Case No.3 of 1927-28.	APPELLANTS. 1. Guttala Gowda 2. K. Kada, 3. P. Kada, 4. Lingo Gowda, 5. Rame Gowda, and 6. Channe Gowda. (accused 1 to 6)

Read also petition of Criminal Appeal No.72 of 1927-28 presented by Mr. K. Shankaranarayana Rao, Government Advocate on behalf of Government, praying that the order of acquittal of Channe Gowda* -- 6th accused, passed by the Sessions Judge, Bangalore in Bangalore Sessions Case No.3 of 1927-28, may be set aside.

(Offence under Section 302/114, Indian Penal Code).

(* Order for arrest under Section 427, Criminal Procedure Code, issued and released on bail)

JUDGMENT.

J U D G M E N T.

Guttalo Gowda, K. Kada, P. Kada, Linge Gowda, Honno Gowda and one Channe Gowda were tried for the murder of Honne Gowda, Patel of Hudugere before the Sessions Judge of Bangalore and 3 assessors. Channe Gowda was acquitted but the other five were convicted and sentenced to death. The case has been referred to this court for confirmation of the sentence and the convicted persons have also appealed. The Government have also preferred an appeal against the acquittal of Channe Gowda.

The deceased Honne Gowda was killed at about 8-30p on the 10th June at Settihalli Railway Station, and from the nature of the wounds on his body, there is no room for doubt that he was the victim of a particularly brutal murder. The motive for the crime assigned to the accused by the prosecution is the enmity which is alleged to have existed between the deceased and the accused in regard to the property of one Thibbe Gowda, the patta of a village site and other matters. The deceased Honne Gowda was a resident of Hudigere a village which is about a mile from Settihalli Railway Station, and succeeded to the office of the Patell of the village after the death of his cousin Thibbe Gowda, the husband of Lingamma who is said to be on terms of intimacy with the 2nd accused. As Lingamma set up that her husband had adopted the 3rd accused, and left a will devising the properties and the Patell office to him, Honne Gowda and his father filed a suit and obtained a decree in 1921-22 that the adoption and will were not valid. At the instigation of the 2nd accused, Lingamma is said to have filed a suit for

possession

possession of the proportion and obtained a decree. The 3rd accused is the son of a sister of the 2nd, and the 5th is the son of another sister. The 1st accused has married a daughter of 2nd accused's cousin, the wife of the 5th accused and the wife of the 6th accused are said to be sisters. The 6th accused is a resident of Averahalli and is a Hadu Gowda who decides disputes in religious disputes and social matters among the Vokkaligaru in a number of villages. There were cases and counter cases of rioting on 19-11-25 between Honne Gowda and the accused 1, 2, 3 and 5 and one member of the deceased's faction was sentenced to pay a fine of Rs.51/- on -- 21-9-26 but the conviction was however set aside in -- appeal. The 1st accused and 6th accused had a recent cause of offence. The 1st accused had purchased a vacant site No.29 from Thibbe Gowda the elder brother of the deceased in 1918 and was paying a kandayam of 8 annas a year. But from one or two years prior to the occurrence, the Patel was refusing to receive the kandayam, and the 1st accused presented a number of petitions to the Amildar in the matter, and complained that the Patel was trying to alter the receipts already granted. (See Exhibit P3(c) 7. Under the orders of the Amildar, a notice was published in the village on the evening of the 10th June 1927. The grievance of the 6th accused was that on the evening of the 12th March 1927, when polling was going on in the Gettihalli School, the deceased Honne Gowda and Hariankc Gowda used abusive language and beat him for helping one Abdul ~~Kadder~~ Kuddus in the election to the Representative Assembly (Ex.P.4). Channe Gowda and Bore Gowda (Prosecution witnesses Nos.21 & 22) who recorded the votes on that day say that the deceased with his ~~shoes~~ sheet on kicked the 6th accused.

The case for the prosecution is that on the evening

of

of the 10th June, the deceased went conversing with the Sheikdar up to Settihalli and was returning to the -- village at about 8-15 or 8-30 P.M. with Holava who met him near Settihalli, and that the accused who had -- collected near the aloe hedge attacked Honne Gowda an murdered him. That Honne Gowda went with the Sheikdar up to Settihalli and took leave of him at 6-30 P.M. and that he and Holava subsequently left Settihalli at about 8 P.M. is spoken to by M. G. Krishna Rao, the - Sheikdar, Chikka Putta Gowda and S.M. Putte Gowda - (Prosecution witnesses Nos.14, 24 and 25). Krishna Rao says that after serving the notice and Istihar, he conducted a sale, and left Mudigere at 5-30 P.M. that Honne Gowda came with him as far as a place near Settihalli, and that at 6-30 P.M. Honne Gowda and another who met there went towards Settihalli. Chikka Putte Gowda says that Honne Gowda and Holava Gowda came to him at about 6 P.M. and sat on his pial till 7-30 p.m. awaiting the return of S.M. Putte Gowda from his fields, and that after the latter returned from the fild, the Patel demanded payment of Kandayam and that the three went towards the Railway Station. He states that a short time thereafter he heard the cries in the village and saw people running to the station, and that when he went - there he saw the corpse of Honne Gowda. S.M. Putte Gowda met the Patel and Holava at about 8 P.M. and promised to pay the kandayam demanded of him in 3 or 4 days, and the Patel declined his invitation for meals and he accompanied Honne Gowda and Holava up to the Railway gate and returned. Shortly afterwards he heard the cries and when he went with the villagers he learnt that Honne Gowda was murdered. There appears to be no reason to doubt that the account given by these witnesses

to

Settihalli as his uncle did not turn up for meals and heard at the station the words ಅಯ್ಯೋ ಮಾವನಾ ಹೊಡೆದು ಹಾಕಿದರು ಅಂತ ಹೇಳಿದ್ದು he turned back and stood near the latrine and saw the accused 1, 2, 3 and 5 attacking his uncle and the 4th clasping him and the 6th prompting the others. He - gave out this story on the next day at the inquest. - The Sessions Judge believed Kade Gowda though he thinks he might not have seen all the accused from where he stood: He does not consider the story improbable. - But it is rather strange that none of the Settihalli people who collected there after hearing Holava's cries, nor Holava himself should have noticed his presence if he were really there with them. Holava denies having seen Kade Gowda that night. If Kade Gowda was really present with the Settihalli people who went to see the corpse, Holava would not have asked Halle Gowda (Prosecution Witness No.23) to carry information to Mudigere. When he heard the cry he was just behind the Station Master's Quarters, i.e., 300 ft. from the latrine. He must have taken some time to find out whether the cry referred to was that of Holava or from which side the cry came: he says he then crossed the hedge through an opening, went near the Booking Office, and then proceeded along the path leading to the Katte: He recognised Holava by his voice but still did not cry out to him as to what the matter was. Holava had run back by that time over 350 ft. from the scene of occurrence and it is extremely improbable that in spite of the severe blows given by the accused, Honne Gowda would have been standing, or would have been clasped by the 4th accused when Kade Gowda saw him. He has obviously tried to repeat all that Holava has spoken to but as his

presence

presence at the spot is not spoken to by any other witness for the prosecution, we consider it unsafe to rely upon his evidence.

It is not necessary to discuss in great detail the evidence regarding the ill-feeling between the deceased Honne Gowda on the one side and the accused on the other. Honne Gowda was the leader of one faction, and the accused belonged to the opposite faction. Nearly 13 or 14 years ago, the 2nd accused had filed a complaint of Criminal Breach of Trust against Honne Gowda but the latter was discharged. After the death of Patel Thibbe Gowda, there has been civil litigation between the Patel and Thibbe Gowda's widow Lingamma whose cause is espoused by the 2nd accused and the 3rd accused. In fact, Lingamma's case was that the 3rd accused had been adopted by her husband. Mr. Krishna Rao (Prosecution witness No.6) who conducted the prosecution in Criminal Case No.144 of 1924-25 on the file of the Special First Grade Magistrate of Bangalore, states that Honne Gowda and his nephews were the accused in the case of rioting, that accused 1, 3 and 5 were the prosecution witnesses and that accused 1 and 2 were actually helping the prosecution. The case was disposed of on 21-9-26 and one of the Patel's party was sentenced to pay a fine, and the conviction was subsequently set aside on appeal. He also speaks to the fact that accused 1 and 2 were coming to him till end of March to enquire if any appeal was preferred by Government against the order of acquittal. Mr. Shama Rao who was the Inspector of Channapatna at the time of the rioting says that the 6th accused belonged to the 2nd accused's faction, and helped the prosecution in the case against Patel Honne Gowda. The 6th accused's petition Exhibit P4 to the Deputy Commissioner and the evidence of Channe Gowda and Bore

Gowda

Gowda prove the enmity between the deceased and the 6th accused.

Holava's evidence is very clear in regard to the persons who attacked Honne Gowda. Holava had gone - that morning to Byrapatna to attend a marriage and was returning home in the evening when he met the Patel near Settihalli: After the Patel took leave of the Sheikdar he and Holava went to Settihalli and stayed there talking with Chicka Putte Gowda till S.M.Putte Gowda came there, and then started for Hudigere. - S.M. Putte Gowda accompanied them up to the Railway Gate, then Honne Gowda and he proceeded on the railway line and then turned on the foot path as far as the mango tree; then the 4th accused came from the side of the hedge and clasped Honne Gowda: the 5th accused came also there and gave a blow with a vichu Kodli and accused 1, 2 and 3 also began giving blows with Machu, Sudlu and pichu Kodli. When Holava questioned them about their deed, the 5th accused who was there, asked the others to beat him, and Holava took to his heels and the 3rd accused chased him for some distance. - Holava ran crying past the Station towards Settihalli. The people of Settihalli attracted by his cries came towards the station, and learnt from him every thing. That Holava was the only person who accompanied the deceased when he proceeded to his village from Settihalli is proved beyond all reasonable doubt by the evidence already referred to. That he was the person to come back running with the news of the murder is also clear from the evidence of the Station Master, Assistant Station Master, the pointsman and the Settihalli witnesses. He did not mention the details to the

Station

Station officials, but he is positive that all the 6 accused were present at the murder and that the accused 1,2, 3, and 5 were the persons who attacked the deceased with Nachu, Kudlu, and pichu Kodli. He gave out the names of all the assailants to the Settihalli people immediately after they saw him. Malle Gowda (Prosecution witness No.23) says that he met Helava first and that the latter gave out the names of all the 6 accused. The Patel of Settihalli (Kale Gowda) who is proved to be a relation of the 6th accused states that he also went to the spot immediately after he heard the cries and that Helava gave out the names of the first five accused: he however adds that Channe Gowda's name was not mentioned first but was given out when he had come as far as the sign post. This portion of the Patel's story is clearly an after thought, and cannot be believed. It is not mentioned in the report Exhibit P_{11} he sent to the Police nor in the committing Magistrate's Court. He has not stated in his report that the Channe Gowda mentioned as one of the assailants was of Mudigere Anke Gowda swears to the relationship between him and the 6th accused, and also to that between the Patel and Chicka Putte Gowda and S.M. Putte Gowda. The reason why the latter also omit the name of 6th accused is thus obvious. Further the evidence shows that there is no Chenne Gowda in Mudigere who belongs to the accused's party. Coming now to Helava's evidence, it is clear from Exhibit P_{11} that he gave out all the six names to the Patel who wrote the report and sent it away to Channapatna at once. Helava gave out the names of the same persons on the next day at the inquest. Chicka Putta Gowda (Prosecution witness No,24) however says that when they

they went to the spot immediately on hearing the cries Helava mentioned the names of only 3, 4 and 5 and -- S.H. Puttee Gowda also says that he mentioned the name of accused 3, 4 and 5. These two may not have heard the names given out by Helava or they have the motive already referred to for not mentioning all the names given out by him. There is no good reason to discredit the information given immediately after the -- occurrence to the Patel, and the Patel's report Exhibit P_{11} fully supports the prosecution case. There was no time for Helava to be taught by any one when he gave the information to the Patel and the others, and the Patel who is not a friend of the deceased could not have been influenced to write a false report. The story given out by Helava does not appear to be a product of his imagination. Unless he had actually witnessed what he has stated, he could not have given out such a graphic description of the incident soon after the occurrence. His story that a number of persons attacked the deceased with different kinds of weapons, is supported by the medical evidence adduced in the case. From the nature of injuries noticed at the postmortem examination it seems clear that more than one kind of weapon must have been used and more than one person must have attacked the deceased.

It was contended on behalf of the accused that Exhibit P_{11} was not the original report sent by the Patel, that after the arrival of the Inspector on the spot at that night, Thittamaranahalli Venkata Gowda who is an avowed enemy of the accused also arrived at Settihalli, that the two must have ~~connected~~ concocted the case against the accused, that Honne Gowda had a number of enemies and must have been murdered by some one, and

that

quent evidence shows that it was only a guess on his part. He saw a car near the Station, and the Inspector was then talking to the Station Master, so he guessed that the Inspector might have come in the car. On the other hand the Inspector swears he came walking on the Railway line from Channapatna and Mr. Venkoba Rao the Station Master corroborates his evidence. There is - nothing to show that the Inspector went to Channapatna that night after coming to Gettihalli. The Inspector swears that the telegram Exhibit P5 was received by him at 11-5 P.M. and that about the same time the Patel's report Exhibit P11 was also received by him through the Kasaba Jamadar Abdul Ravoof. The time of receipt is noted in both these and bear out what he has stated. Jamadar Abdul Ravoof also states that Exhibit P11 was received by him through Kada at 11 P.M. He adds that the F.I.R. was sent by him with the report to the Amildar and that as it was late in the night and the Amildar was in bed, it was actually submitted on the next morning. There is nothing improbable in this explanation, and it seems to be a straightforward story. Then the Patel (Prosecution Witness No.26) states that he wrote the report Exhibit P11 immediately after the occurrence and sent it by Thoti, and that it was only 2 hours afterwards that the Inspector came to Gettihalli. The Patel is closely related to the 6th accused to whose party the other accused belong and it is extremely unlikely he would be a party to any concoction on the part of the Inspector and Venkata Gowda against the accused.

There is also no evidence that Honne Gowda had any enemies other than the accused. The Inspector states that one Javaraya Gowda of Puttpanna Doddi had filed 2 petitions against the deceased and that the Kasaba Sub Inspector who inquired into the case found that there

was

was nothing in it for the police to take any action. The nature of the complaint is not known and from the evidence it does not appear that there was any motive on the part of Javaraye Gowda to murder the Patel. It was suggested that Kootakal Gowda of Gottihalli was also not well disposed towards him. Kootakal Gowda gave a dharkast for Survey No.184, and the Patel also bid for that land and purchased it. That fact by itself does not prove that Kootakal Gowda bore any ill-will to the Patel and intended therefore to cause his death. C. Putte Gowda says that Kootakal Gowda was at his house on that evening.

The reason why Helava did not mention the names of the culprits to the Station staff is explained by Helava. He says," as the Porter and Station Master did not come to the spot in spite of my cries I took it that they would not come to the spot and so ran towards the village. My idea was to go away from the accused persons to a distance towards Gottihalli." The psychology of his mind is easily understood. He cried out after the Patel was attacked, and the Station Staff did not come to the spot. He was pursued for some distance by the 3rd accused, and ran for his life and thought that his best safety was Gottihalli where there were a number of people. Under the circumstances, he could not think of giving replies on the way to persons who questioned him out of curiosity but would not come to his help.

We have anxiously considered the evidence and we do not believe that the prosecution story is concocted by the Inspector or Thittameranahalli Venkate Gowda, Helava's evidence seems to be substantially true in all its details and there are no reasons whatever to discredit his testimony. His statement is fully supported by the

surrounding

surrounding circumstances already referred to.

There is however no direct evidence to prove any conspiracy among the 6 accused, except that they belong to the faction opposed to that of the deceased and had a grudge against him. The conspiracy is however inferred from the joint act of murder, and their presence at the time. The Prosecution have examined Prosecution witnesses Nos.17, 18, 19 and 20 to show that accused 3 and 4 were going towards Gottihalli on that evening, that 2 and 5 similarly went out of the village, and that the 6th accused was near Byrappina that day at sunset. The Sessions Judge disbelieves Prosecution witnesses Nos.17, 19, and 20 but believes ~~that of~~ Prosecution witness No.1. We do not think that there is any inherent peculiarity in the evidence of Ninga to make it more worthy of belief than that of the other three witnesses. All the 4 witnesses are on a par with one another and the evidence does not appear to us to be very trustworthy. They were examined a week after the occurrence by the Police, and there is nothing in the evidence to suggest that all the six accused were aware that the Patel was going to Gottihalli with the Bhoikdar and would return alone in the dark by the footpath to give them an opportunity for wreaking their vengeance. Though there is no reliable direct evidence that the accused persons met together prior to the occurrence, and concerted measures to sit upon and attack the deceased, still if we believe the evidence, as indeed we do, that they were found together in a somewhat secluded spot, at an unusual hour, some of them armed with cutting instruments and all of them bearing a common grudge against the deceased, it is not unreasonable to infer that they had met at or near the spot not by an accident but in pursuance of a previous

understanding.

first place, there is paucity of evidence in regard to the details of the crime, next, we cannot omit to take into account the comparatively young age of accused 3, 4 and 5. There is again want of reliable direct evidence as regards the conspiracy prior to the occurrence. There is also considerable difficulty in assigning to each the specific part in the commissio of the crime, and though that may not be an important factor in arriving at the finding that they are all guilty, still it is an element that ought to enter into consideration in determining whether the extreme or the lesser sentence should be imposed. We find it hard on the materials placed before us to differentiate the case of one from the others, so as to single out any particular person or persons for meeting out sentence of death, nor do we find sufficient justification for treating all the accused persons alike and subjecting all of them to the extreme penalty of law. After bestowing our most anxious thoughts on the question, we have come to the decision that in the matter of sentence all should be dealt with alike without distinction. As the imposition of death sentences on all is, for the reasons aforesaid, not possible, we are constrained, though not without hesitation, to sentence all of them, viz., accused 1 to 5 to transportation for life.

As regards the 6th accused against whose acquittal Government have preferred an appeal, the testimony of Nelava the eye witness, whose evidence is accepted in toto by the lower court, establishes that he was present at the time of the occurence along with the other accused persons. In para 9 of the lower court's judgment, the learned Sessions Judge holds that it is clear to his mind that the accused persons 1 to 5 who had -

grudge

grudge against the deceased were used as tools by the 6th accused to accomplish the murder of the deceased in order to wreak his vengeance. That the 6th accused bore strong grudge against the deceased in connection with the election incident of the 12th of March 1927 is accepted by the learned Sessions Judge. (See also in this connection Exhibit P.4 and the evidence of Prosecution witnesses Nos 21 and 22). The plea of alibi sought to be proved by the 6th accused has been rightly disbelieved by the lower court. We accept the learned Judge's reasons and conclusions in regard to this matter. Added to this, there is also the circumstance that the 6th accused was absent from his village from the date of the occurrence till his surrender in the Committing - Magistrate's Court on the date of the enquiry. In the face of these facts and circumstances, and the clear finding of the learned Judge we do not find sufficient justification for to entertain any reasonable doubt regarding the complicity of the 6th accused in the matter. It was urged before us that there was no evidence that the 6th accused incited the other accused persons to commit the crime. It is true that Helava states that when he cried out that the deceased was murdered the 6th accused asked the other accused persons to strike him, i.e., the witness. But that does not, we think, disprove that he was present there as an accessory to the fact. His conduct at the time of the commission of the crime and thereafter, taken with the surrounding circumstances, can lead to only one inference, and that is that he was privy to the crime. He is therefore as much - guilty as the other accused persons, though his hand may not be responsible for the physical injuries inflicted on the person of the deceased. The appeal preferred by Government must, in these circumstances, be allowed.

The

The acquittal of the 6th accused of the offence of murder is therefore set aside. He is convicted under Section 302 of the Indian Penal Code and sentenced to transportation for life. He will surrender himself to his bail bond and undergo the sentence now imposed on him.

Sd/- C.S. Doraswami Iyer,
CHIEF JUDGE.

Sd/- G. Srinivasa Iyer.
JUDGE.

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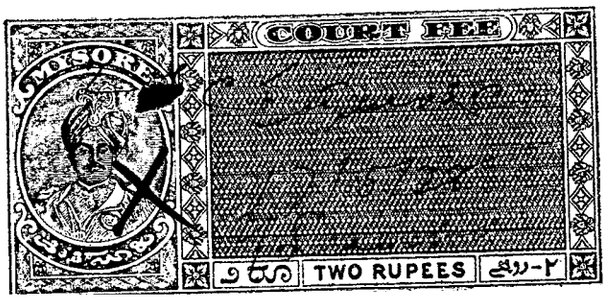
Registrar.



Legal Remembrancer for the Govt Note

22/5/28

Leave 37-26-10

Before The Government Of His Highness The

Maharaja Of Mysore At Bangalore.

Call for the entire records with the Deputy of the Ch Ct early.
22.5.28.

The humble memorial of A.Channegowda, accused No.6 in Bangalore Sessions Case No.3 of 1927-28 and - respondent in Criminal Application No.72 of 27-28 on the file of the Chief Court against his conviction and sentence for murder humbly - and respectfully:

Sheweth:

1. The deceased is one Honnegowda, patel of Mudigere Village, Channapatna Taluq. He is alleged to have been murdered by the - first five accused on the 10th June 1927 and the sixth accused is said to have abetted the murder.

2. The second accused is the maternal uncle of the third and fifth accused. The third accused's sister is said to be the - mistress of the fourth accused. The wife of the first accused is a daughter of a cousin - of the second accused. The sixth accused's -

brother's

kandayam amount. Again there seems to have been a rioting case between the two factions. In March 1928 while there was an election - for the Bangalore District Board Membership, Settihalli was one of the Polling Stations. The deceased was canvassing votes for a partiular candidate and the sixth accused for a - Mohamedan. Here both the deceased and the - sixth accused fell out with each other. Then the sixth accused is said to have expressed - that the deceased would see the result of his act in a few days. This, according to the - prosecution, is alleged to be the motive for the sixth accused to murder the deceased. The first accused also had enmity against the -. deceased. The brother of the deceased Thippe Gowda executed a sale deed of a vacant site - in accused 1's favour, without consulting his brother; the deceased, on knowing it, evaded making out the patta of the site in accused 1's name. But first accused submitted petitions to the Amildar to grant him patta of the land. The Sheikdar went to Mudigere to serve two - istihars on the khatedar in connection with the transfer of patta. The processes were entrusted to the deceased for service.

6. Then the Sheikdar returned to his own village, with his peon. The deceased - followed him for a distance on the foot-path leading

deceased never raised any cry when he was first clasped by accused 4 or attacked by the rest; - he too was quietly standing and witnessing all that was taking place. Accused six was present and prompted the third accused to get hold of - this witness; he was chased by the third accused; Prosecution Witness No.15 then began to - run away crying "Ayyo." The Station Master, - Assistant Station Master and the Pointsman were on duty at the Station then and people were - lying on the platform; there was also light - burning, he did not give out the names of the - accused to them though asked, but continued running towards Settihalli; people from Settihalli especially Prosecution Witness 23 whose house is nearest to the Station came running ~~[illegible]~~ - hearing the cry of Prosecution Witness 15. He gave out then the names of the accused, as being the murderers. The evidence of this witness - is interested~~ness~~ and unreliable for reasons - elicited in his Cross-Examination; uncorroborated as it is, it is respectfully submitted, it is not sufficient to convict any accused person, - much less to set aside a verdict of acquittal. The next eye-witness is Prosecution Witness No. 16, one Kadegowda, who is a nephew of the deceased. His evidence is that he witnessed the murder from behind the latrine in the Station and that he saw all the accused there. While believing

his

his evidence. the Sessions Judge also observes, "that from his position behind the latrine he might not have very well recognised all the accused persons." The Chief Court disbelieved his evidence altogether. Any how, this shows how far the Prosecution can get up evidence to support a case started by them.

9. Prosecution Witness No.23 states that Prosecution Witness No.15 mentioned to him that accused 6 was present with the other accused. But this is only hearsay evidence which ought not to be acted upon legally; his interestedness in the prosecution is elicited in his Cross Examination to show why his evidence should not be believed. Further it is quite improbable that Prosecution Witness No.15 who was reticent when meeting the station staff and other people at the Station became suddenly loquacious when meeting this one witness to whom he mentioned the names of the accused in a leisurely pre-arranged manner. The perturbed state of mind by which the learned Sessions Judge wants to explain away his attitude to the Station Staff would not have suddenly calmed down. The explanation offered by Prosecution Witness No.15 himself is rather artificial. Prosecution Witness No.27's evidence is also hearsay. It is also very significant that he omitted to mention the names of any of the accused in his telegram to the authorities which he sent at a cost of Rs.7-8-0, viz., (Exhibit P. 19).

10). The evidence of these two is also interested and unreliable is seen in their Cross Examination. The reasons given by the Chief Court to explain away the evidence of Prosecution Witnesses Nos.24 and 25 who contradict the above two that Helava (Prosecution Witness No.15) mentioned only the names of accused, 3, 4 and 5 but not that of accused are not only not convincing but are also opposed to the principles of appreciating evidence in a Criminal Case to the prejudice of accused persons. It is the duty of the Prosecution to prove every fact on which it relies, for a conviction but not to assume any fact against the accused. The evidence of Patel Prosecution Witness No.26 read with Exhibit P.11 has not been properly considered and correctly appreciated.

10. The two other witnesses who mention anything about the sixth accused are Prosecution Witnesses Nos.19 and 20. These witnesses are disbelieved by both the Courts. There is no other evidence to prove that accused 6 who is a resident of Avverahalli (about five or six miles away from the scene of occurrence) was seen at or about the time and place of murder or in the company of the other accused persons.

11. The Prosecution Witnesses Nos.21 and 22 while referring to the quarrel between the deceased and the sixth accused about three months before

before the occurrence have deliberately magnified it by introducing shoe-beating in it. The Prosecution has not in any way proved which it ought to do, that because of this election - incident, accused 6-was present and abetted the rest to commit the murder at the time and place or at any time before. The Prosecution taking advantage of the exaggerated incident at - the election and with the active aid of his - enemies has foisted this false case against the accused 6.

12. Again the observation by the Chief - Court that the sixth accused ought to have surrendered himself to the Police earlier can be easily explained, viz., that he wanted to save himself the tortures and annoyances at the - hands of the police which is a fact noted in - the minds of the villagers. He voluntarily surrendered himself at the earliest opportunity after this case left the hands of the Police.

13. The Sessions Judge while accepting the meagre and uncorroborated testimony of Prosecution Witnesses Nos.15 and 16 as regards the other accused persons, but being conscious that that - does not warrant a conviction of the sixth accused has rightly given him the benefit of the doubt and acquitted him, for reasons, amongst others, - as stated in paragraph 12 of his judgment. The Chief Court has not given due weight to several - improbabilities and inconsistencies in the evi-

-dence

17. Accused 6 is an old man of about sixty years of age. A sentence of transportation for life is very hard and deserving of merciful consideration.

Taking all the above circumstances into consideration your humble Memorialist most - respectfully prays that he may be recommended to be declared innocent and mercifully set at liberty; or pass such other - order as may be deemed fit.

For which act of mercy your humble - Memorialist will ever pray.

Bangalore,
16-5-1928.

"Annexure to the Memorial."

Deposition of Helava, Prosecution Witnes No.15.

Father's Name	Anke Gowda.
Age.	26
Caste.	Vokkaligar.
Occupation.	Agriculture.
Residence.	Mudigere.

On Affirmation.

I am a native of Mudigere. I know all the 6 accused persons. The first five are natives - of my village and the 6th accused of Avverahalli. This village is 2½ miles from Mudigere. I know the first five accused from the time of my discretionary age. The 6th accused is the Nada Gowda of my village. He frequently visitsmy village. As Nada Gowda he decides **our** caste matters. About 4 months and 10 or 11 days ago I went to Byrapatna to attend marriage in Thimme Gowda's house. On Friday evening I was returning to my place. From Byrapatna I went by the foot path to very near - Settihalli. I saw the Shekdar his peon and patel Honne Gowda coming from Settihalli side towards - Byrapatna. I asked Honne Gowda whether he was going to Mudigere ot to Channapatna. He asked me to stop as he was going to Mudigere. I went with him retracing my way a little. There the Sheikdar -

asked

asked Honne Gowda to return to his Village. Sheikdar and the peon proceeded towards Byrapatna. Myself and Honne Gowda proceeded towards Settihalli. Then the sun had set. In front of Settihalli Village there is Hanumantharaya Temple. Chick Putte Gowda, who has taken up road contract was seated on the pial. He questioned the patel as to where he had gone. The Patel said he had gone with the Shekdar. Honnegowda asked Chickka Putte Gowda - whethere Mari Gowdana Putte Gowda was at home. Chickka Putte Gowda answered that he had not yet - returned from the field. Honne Gowda stated that he had to talk to M.Putte Gowda regarding payment - of kandayam. He sat with Chickka Putte Gowda on the pial. After some time M.Putte Gowda came from the field. He sat with two persons talking and said he would pay kandayam in a few days. Honne Gowda - got up saying he would go to his village. M.Putte Gowda and Chickka Putte Gowda asked him to stay for meals. Honne Gowda declined. He, myself and M. Putte Gowda proceeded as far as the Railway gate. Thence M.Puttegowda returned to Settihalli. It was then night meals time. Myself and Honne Gowda - proceeded on the Railway line towards the Station. There are sleepers erected at the other end of the platform. At the end of that palisade there is a foot-path which leads to our village. We proceeded by the foot path as far as the mango tree beyond - which there is the aloe hedge. The fourth accused Linga came from the side of the hedge and clasped -

Honnegowda in his front. Honnegowda had a panche round his neck and shoulders. (Witness demonstrates the way of the clasp as one in front of the other). Honne Gowda was always walking with the panche going round his neck and shoulders and held by his - hands in front, the hands crossing each other in - front. The fifth accused Ramegowda came through the opening in the hedge on our right side and gave a - blow with a pick axe (ಪಿಕಾಸಿ) on the left side of the body of Honne Gowda. Then, the first three accused persons came from the same opening and began giving blows with chopper and pick axe (ಕತ್ತಿ and ಪಿಕಾಸಿ). The first and third accused persons had choppers in their hands and the second accused a pick axe. I cannot specify the portions of the body on which the blows fell. After each of these accused persons gave a blow I receded two steps crying out that "he was murdered (ಕೊಲೆಯಾಗುತ್ತಾನೆ)." Then the 6th accused Chennegowda asked the others to give me - blows. The 6th accused was standing by the side of the fourth accused in the foot path. I saw him - first when he said that I should be beaten. The - third accused chased me. I ran towards the Station crying out all the time. The third accused while - chasing me caught the edge of my panche and I left the panche and ran away. Porter Thimma asked me - what the matter was. I continued running crying out that "he was murdered." The Station Master called out who it was. But I ran towards Settihalli crying out in the same strain. I went to the other end of

the

the platform. Malle Gowda and Chenne Gowda came from Settihalli side. There were other persons - behind them. Mallegowda asked me what it was. I said that Honnegowda was murdered. They asked who it was that murdered. I named all the six accused persons. They asked me to show the place. I took them to the corpse. The corpse was lying one maroo beyond the place, where he was when I left him i.e., a little beyond the mango tree. I asked Mallegowda to give information in our village. The corpse - was lying down. There were many injuries and blood was flowing from them. After Mallegowda was sent to Mudigere, the Patel of Settihalli came to the spot. He enquired me about the persons concerned in the - murder. I named all the six accused persons. He said he had to write report and I should give the names - correctly. I stated the names of all the six accused persons. Patel asked me to stay there until the arrival of the Inspector. I came to the waiting room and slept there. The Patel went towards Settihalli. The Inspector came at midnight. Then, the patel aroused me and took me to the corpse. To the enquiry of the Inspector I stated that all the six accused persons had murdered Honne Gowda. I said that the first - five belonged to my place and the 6th accused to - Avverahalli. The Inspector asked me to stay there until the train time next morning at 10 A.M. At 10 A.M. the Inspector wrote something and asked me to go away. I signed the statement and went away. On the next day or on the third day the Railway Superintendent took down my statement which I signed. - Honnegowda had worn a banian, put on a panche, tied

a panche and wore a pair of sandals. These are articles I to IV. The clothes are blood-stained.

(Before the commencement of the Cross Examination Messrs.Narasinga Rao and Venkatapathiah - bring to my notice the amendment to the Criminal Procedure Code Section 162 which came into force from 1st July 1927 under which the accused may request the Court to send for Police Statements made by witnesses and the Court shall refer to such - writing and direct that the accused be furnished with a copy thereof to be used by the accused - under Section 145 of the Evidence Act. As the - section is imperative I call upon the Public Prosecutor to get the statements made to the Police by this witness and other witnesses).

Cross-examination by Mr.Venkatapathiah:-

My elder brother Puttegowda and myself live in different portions of a house. My brother's wife - is the daughter of Thibbe Gowda who is a P.W. This Thibbe Gowda is the elder brother of the deceased. P. W. No.27 Mari Anke Gowda alias Anke Gowda's father was Chennegowda. This Chennegowda and my father are first cousins. Myself and Mari Anke Gowda have - divided the same house. My mother-in-law Kadamma is a native of Mudigere. I do not know if the deceased's father-in-law and my mother-in-law were children of the same parents. I have not heard of Thittamaranahalli Venkategowda. I do not know if Dyaviah, the - brother of the deceased, has married the sister of - P.W.27 Mari Anke Gowda. I do not know that Rame Gowda

Gowda of Byrapatna is come to court. Why should I go to Byrapatna to see Rame Gowda? P.W.Kada's brother is Mota. He has married the sister of Rama of Byrapatna. (Byrapatna Rama is called and identified by the witness). I do not know that the deceased's brother Dyaviah's daughter is married to this Rama. I went to Byrapatna to attend the marriage of the - son of Helave Gowdana Thimme Gowda. I left my place that day at about 8 A.M. I went via Settihalli. On the way I met Merave Gowdana Thibbe Gowda and Chennake Gowda's son Kempa. They are of my place and they were also going to the marriage. No one else of my place attended the marriage. I do not know how the 2 others are related to Thimmegowda. Myself and the bridegroom were friends and so the boy had invited me three days - before the marriage. I did not see the boy inviting any others of my village. I do not know whether any - one besides the two who accompanied me and my household people knew that I went for the marriage. There is no one else who can testify to that. I used to go to Thimme Gowda's house. I had gone to him once 2 or 3 months prior to the marriage. I have not gone to his house after the marriage. At Byrapatna I know only - the people in the house of Thimme Gowda. How can I say to which village the other people who had assembled at the marriage belonged: I talked to some of them. - We were given meals at mid-day. I did not present any cloths to the boy. After meals the two persons who - had come with me returned. I did not send words with them that I would come later on. I left Byrapatna a - little before sunset. I have seen A vverahalli. There are several foot paths branching off a little away -

from

from the road at Byrapatna. I do not know if the path goes to Avverahalli. I have not seen the foot path passing along the Settihalli tank bund and joining the Railway line. I have not seen another level crossing higher up the level crossing towards Chennapatna referred to by me. From Byrapatna I went by the "oni" which lies along fields and mulberry gardens. There is a Bage tree by the side of the "oni" at a place 2 furlongs from Byrapatna side of Settihalli. The fields were being ploughed. I do not know the name of any person who was ploughing the field on my way. The sun had set when I met Shekdar and two others. It was not yet lighting time. It was getting dark. I met the three persons at a place beyond Bage tree towards Byrapatna side. I met them at a place about four furlongs after I branched off from the main road. The Bage tree was still about 30 yards from that place. I was the first to speak to Honne Gowda. The Shekdar was leading, the patel was going behind him and the peon behind the patel They went along conversing. I went with them to a distance of about 60 yards. To the questing put by Honne Gowda I stated that I had gone to Byrapatna to attend a marriage. As soon as Shekdar and peon went on their way myself and Honne Gowda turned back. The temple door faces west. We entered the village by the east. From the temple the school is not visible as trees intervene. There are fields between. I have not seen any of the fields of M.Putte Gowda. Chickka Putte Gowda did not tell us to which field M.Puttegowda had gone. No one was sent to fetch M.Putte Gowda nor did the

deceased

deceased ask any one to be sent. Lamps had been lit when we sat on the pial. People were passing along the temple. None of them came and sat with us nor hold converse with us. We sat on the pial for about one hour. It is by the same path I was usually going to Settihalli and Byrapatna. I was not acquainted with any of the passers by. That is the usual way for men and cattle to enter the village. I did not know from the conversation as to how much - kandayam was due and for what lands. I do not know what other conversation they had. We all got up together. We three went towards the Railway gate and Chickka Putte Gowda went towards the village. Honne Gowda did not mention the reason why he declined to stay for meals. From the temple until the Railway - gate there are houses on both sides, about fifteen on each side. I did not hear any of the inmates of the houses speaking to Honne Gowda or making any enquiries. We did not stay at the gate. After crossing the line at the level crossing there is a foot path which goes straight to my village leaving the Railway Station to the left. Manure carts are taken by that path right up to my village gate. We sight the village after proceeding one-fourth mile from the Station. There were people in the Station and also light. We did not speak to any one there. I was going behind Honne Gowda at a distance of two <u>maroos</u> from him. Some people were sleeping on the platform. I cannot say how many. I - kept up the interval of 2 <u>maroos</u> until when the fourth accused came and clasped Honne Gowda. Until he clasped I could not see whether any persons were near us. I did not cry out when Honne Gowda was clasped. I did -

not

not attempt to rescue the deceased. Honne Gowda did not make any noise after being clapsed nor - even afterwards. It was only I that cried out - after the four other accused persons attacked the deceased. The first three accused persons came when the fifth accused gave the first blow. When I left the place the deceased was still standing. I cannot say whether the fourth accused was still holding him. The fourth accused was there when I left the place. I cannot say what he was doing then nor how far from the deceased he was standing at that time. The accused persons 1,2,3 and 5 surrounded the deceased and attacked him. When I left the place the deceased was standing about one yard distant from the mango tree towards the Maddur side. Those accused were - giving blows from the same positions. I cannot say - which of the accused was nearest to me, nor from what directions each of them was attacking. The sixth accused was standing about four maroos from me on this side of the hedge. None else came to the spot until I left it. No station staff or any one else came to the spot to ask what the matter was. I turned back and ran. Porter Thimmiah was on the platform about three maroos from me while I running. The other persons who were sleeping on the platform were still sleeping and they did not ask me anything while I was running away. I did not tell the Station Master regarding the persons who had attacked the deceased. I did not tell the Porter or the Station Master that Honne Gowda was being attacked by the accused. As the Porter and - Station Master did not come to the spot in spite of my cries

cries I took it that they would not come to the spot and so ran towards the village. I did not call for the Porter and Station Master. My idea was to go away from the accused persons to a distance towards Settihalli. The third accused chased me to a distance of four or - five maroos. I did not find my panche when I returned with the people. I met the people where the sleepers are erected at the other end of the platform. Those people belonged to Settihalli village. About 10 or 20 persons came. I informed what had taken place to the two who came in front, viz., Ballakki Chennegowda and Mallegowda. Behind them were Mari Gowdana Putte Gowda and Chickka Putte Gowda. The others were coming with the latter two. I spoke to the two front men. Others might have over-heard. They were at a distance of - about ten feet. The persons who were coming behind did not ask me anything nor did I tell them. A deposed - before the Lower Court that Chennegowda and Mallegowda were the persons who questioned me. The portion of my deposition now read out and explained to me is marked Ex.D.1. After I mentioned the names of all the accused persons they asked me to show the place. At that time I did not know if Honne Gowda had died. After going to the spot I mentioned the names of the accused persons to the Patel of Settihalli to Anke Gowda and to other people who questioned me. I cannot say who the others were. I came to Bangalore on the 20th. I sleep on any convenient pial. No one has told me what deposition - Malle Gowda has given in the lower Court. I do not - know what deposition Malle Gowda gave in the lower Court. I was sitting near the corpse after Malle Gowda was sent to Mudigere by me and until the arrival of the Patel. Anke Gowda came to the spot after the patel visited and returned

returned to the village. Malle Gowda might have gone two furlongs when the patel came to the spot. There were 10, 20, or 30 persons present when the patel came. They were all of Settihalli. They were Marigowdana Putte Gowda, Chickka Putte Gowda and others, whom I did not know. Until the patel came there people were questioning about the occurrence and I was replying mentioning the names of all the accused persons. Just when I was about to leave the place of the corpse to go to the Station for sleeping Anke Gowda and others of - Mudigere came. I do not know who the others were. I cannot give the name of any other person of Mudigere who questioned me. Except Anke Gowda none of the other Mudigere people who came that night is a prosecution witness. I know Thibbe Gowda's son Kada ever since my - discretionary age. I did not see him either at the - spot or at the Railway Station that night. I did not see him at any time on Friday. I saw him on Saturday morning near the corpse. Patel said that he would return to the village and there write report. I was not present when he wrote it. I do not remember what I stated to the Railway A.S.P. regarding whether patel wrote in my presence or at the village. At the attack I did not see any other person besides the accused. I stated to the Patel that I saw the six accused persons and I did not know whether there were others behind - the aloe hedge. I did not state to the Patel that there were other . I did not say to Chennegowda and Malle - Gowda that there were others besides the accused persons. I did not tell them that there were others whom I could not name because I was exhausted. I did not state to -

Anke Gowda

Anke Gowda that there was others also. The Inspector had pen and paper. He noted all what I told him. The Inspector asked me to stay till 10 A.M. on next day - so that he might take down my statement and my thumb mark. I do not remember having stated in the Lower Court about the Inspector having questioned me that - night. The portion of my deposition in the lower - Court is marked Ex.D.2. No one told me what the Inspector has deposed in this matter in the lower Court. There were ten or 20 persons sleeping in the waiting room when I went to sleep there. I do not know who they were. No one questioned me anything. I did not see Porter Thimmiah when I went to sleep. The Station - Master was attending to his duties. He did not ask me anything nor did I find fault with him for not having come when I cried out. After morning four or five persons questioned me about the incident and I told them when I knew. The second and the fifth accused had (ಬಡಿದ ಹೊಡೆದ). The first and the third (ಹೊಡೆದರು). I call Art 6, (ಕತ್ತಿ or ಕತ್ತಿ), and not as (ಕುಡುಗೋಲು). There is no such word as (ಕುಡುಗೋಲು) so faras I know nor the word (ಕತ್ತಿ). The instrument we use for cutting paddy crop is known as (ಕತ್ತಿ ಕುಡುಗೋಲು). To the Inspector and A.S.P (Railways) and to the lower Court I mentioned (ಕತ್ತಿಯಿಂದ). I stated throughout that the accused persons 2 and 5 had (ಬಡಿದ ಹೊಡೆದ). I have not stated to the A.S.P. that the fifth accused had (ಕತ್ತಿಯಿಂದ) nor did I tell him that the first accused had (ಕತ್ತಿ). I do not remember having stated to him that the third accused had a (ಕತ್ತಿ) nor do I remember having merely stated that the second accused had a (ಕತ್ತಿ). At the inquest when my statement was reco.

the

the weapons which each of the accused persons had was correctly described by me. So also before the committing Magistrate. To the Patel I mentioned the weapons as (ಕೊಡಲಿ) and (ಕುಡುಗೋಲು). At the inquest I did not say that the first and the fifth accused had (ಗದೆಗಳು). I stated (ಆಯುಧ ಹೊಂದಿದ್ದರು). I did not then - state that the second and third accused had (ಯಾವ ಆಯುಧ)

Further cross-examination reserved.
Translated and admitted correct.

Sd.G.Sathyaji Rao,
Sessions Judge.
22-10-27.

25-10-1927:-

Witness re-called for further Cross-Examination:-

The fourth accused clasped Honne Gowda at a distance of one maroo from the hedge. Each of them struggled and came towards me. They came closer to the mango tree. When the four other accused persons came and attacked Honne Gowda was at a distance of two yards from the mango tree on the Maddur side. I was receding even then. I was at a distance of two or three maroos when the 6th accused prompted the others to beat me. The 5th accused was facing the deceased when he dealt the first blow to his left side. At that time the fourth accused was still holding the deceased in the same position. I do not remember whether I stated to the Police that Malle Gowda and Balakki Chenne Gowda came to me and enquired. I know Malle Gowda, Chickka Putte Gowda and M.Putte

from

Deposition of Kade Gowda, Prosecution Witness No.16:-

Father's Name.	Thibbe Gowda.
Age.	27.
Caste.	Vokkaligar.
Occupation.	Agriculture, and School Master.
Residence:	Mudigere.

On Affirmation.

I knew Patel Honne Gowda who was my uncle. I lived together with him. I see the accused persons. Second accused's elder sister is the mother of the third accused. Fifth accused's mother is another - sister of the second accused. Fourth accused has kept as his mistress the third accused's elder sister. Second accused's cousin's daughter is married to the first accused. Sixth accused's brother is Kade Gowda. His wife and the fifth accused's wife are sisters. There was enmity between my uncle on one side and the accused persons 1 and 2 on the other. The disputes between them exist from the past 10 or 16 years. Thibbegowda was the elder brother of Honnegowda. Since his death Honne Gowda was the patel Thibbe Gowda was childless. He left a widow at his death. This widow alleged thather husband had adopted the third accused, and left a will by which his properties and the pateli should go to the third accused. Second accused was - helping the third accused because the latter was his sister's

sister's son. The second accused was keeping the widow Lingamma as his mistress. My uncle and my grand-father disputed the genuineness of the will and adoption and they claimed the properties for themselves. My grand-father filed a suit in the Second Munsiff's Court, Bangalore, for a declaration that the alleg-ed adoption and the will were invalid. The Munsiff decreed the suit holding the will and the adoption to be invalid. This decision was in the year 1921-22. The second accused set up Lingamma to file suit that she was entitled to enjoy the properties during her life. This suit is still pending. The suit was against Honne Gowda and others. The first accused was a witness for Lingamma. The 2nd accused filed a criminal complaint of misappropriation of kandayam amount against my uncle Honne Gowda. My uncle was discharged. (C.C.No.30 of 1913-14 on the file of the Assistant Commissioner and First Magistrate, Closepet). The date of disposal is 29-10-13. There were case and counter case of rioting between Honne Gowda and ourselves on one side and the accused persons 1,2,3 and 5 on the other. In the case against us the first accused was a prosecution witness. On Friday the date of occurrence my uncle Honne Gowda was in our village until 3 P.M. when the auction sale was going on at the schoolhouse. At 6-30 P.M. he went with the Shekdar towards Settihalli. On his way he came into out house, ordered the preparation of cakes and went away. He did not come home at night meals time. I went by - foot path, towards Settihalli. I went up to the Station when I heard the sound of "

-ing

coming from the direction of Rakthadakatte. I turned and ran towards that place from behing the Railway Station and in the foot path. I went as far as the latrine behind the platform. I saw all the - accused persons there. The fourth accused had clasped my uncle with his hands. The 6th accused was prompting the other accused persons to beat (ಹೊಡಿ ,ಹೊಡೆ). The fifth, 1st, 2nd and the third accused were attacking my uncle with ಕೈಯಿಂದ and ಕಾಲಿನಿಂದ. I proceeded a little forward when my uncle fell down. I cried out why - they were beating my uncle. The sixth accused asked the others to catch me and beat me. The accused persons turned towards me. I got afraid and retraced by the same way. The accused persons ran towards Manukunda. P.W.15 Helava was running on the Railway line and Settihalli people were coming towards the spot. I ran behind the Station, joined the Settihalli people who were coming behind the others and then came to the spot. There were injuries all over the body of my - uncle. He was dead. As the sight was unbearable I - stayed there a short time and went to my place. I was examined at the inquest on the following day. After 2 or 3 days I was examined by the Railway Assistant - Superintendent of Police.

Cross-examination by Mr.Venkatapathiah:- I have passed Lower Secondary Examination in Kannada. I was attending school at Settihalli. I know the - people of Settihalli from my boyhood. On that Friday I was in the village from 12 Noon. I am School -

Master

Master at Byadarahalli which is only two miles from Mudigere. I am the only teacher for the - school. I did not take leave that day. I held morning class. The rule is that class should be held both in the mornings and afternoons, 7-30 A.M. to 10-30 A.M. and 3 to 5 P.M. I had got a circular order to hold only morning classes. I did not - show the order to the Police. Vokkaligar, Kurubar and Akkasale boys read in the school. There are no Muslim boys. That day was Bakrid. From the calendar I knew that only morning class had to be held. It is not a Government calendar that I have in the school. My residence is at Mudigere. I have not taken any permission from my department to reside at Mudigere. I come to Mudigere every day and not only on Sundays. I do not mess in the house of Bolo Gowda at Byadarahalli. I know of the disputes from what my uncle was telling me and from the records. I began to attend school from my 8th year and I gave up in my 18th year or 20th year. I was regular in attendance. I do not know English. I applied for and obtained all the copies. As it was Bakrid day I held class in the morning and there was no class in the afternoon. I keep no diary. Because the third accused's sister is living in the - house of the fourth accused, I say that the latter is keeping the woman. There is blood relationship between them. The second accused lives at Channapatna and also at Mudigere. I know Thittamaranahalli Venkate Gowda and his son Venkatappa. I do not know Venkate Gowda'sbrother Venkatiah. I do not know that Venkatiah has taken an assignment of a hypothecation from Lin-

gamma

Lingamma and filed a suit against her. The suit which is pending is the suit in which Lingamma has claimed possession and mesne profits in respect of her husband's properties. The Court has declared her rights as a widow. The lands are not in our possession not in the possession of Lingamma. I do not know that our properties are hypothecated to Thittamaranahalli Venkate Gowda. The deceased was a literate man. My father sold a Thippehalla to the first accused. I do not know whether before the sale he - consulted Honne Gowda. On account of this sale there was misunderstanding between my father and the deceased. The deceased was taxing my father with having sold the Thippehalla without consent. It was my deceased uncle who was managing our joint family affairs. Even now we are joint. I have another uncle by name - Dyaviah. I am unable to indentify the writing and signature of the deceased. I see the writing shown to me. It is the writing of the deceased. This portion in - the document which is marked in red pencil is Exhibit D.3, so also the writing D.3 (a) in the same document. There is also another signature of my uncle which is - now marked D.3 (b). I see the five documents marked - P.5 D. to (2) P.5 D (6) in the lower Court. I cannot say that these are in the handwriting of my deceased uncle. My uncle Dyave Gowdana Thimme Gowda at Byrapatna. My elder brother is Mota. Ramiah's elder - sister is married to Mota. I have another brother - Chickka Dyava who has married the daughter of one - Waragiri Gowda of Byrapatna. I have not seen Makammana Doddi. I do not know that there is another uncle of

mine

mine by name Kade Gowda, living in that Doddi. (P.W.Anku Gowda is called). I do not know this Anku Gowda, I do not knoU that my uncle Dyave Gowda's wife is related to Mari Anke Gowda. I did not tell any one at home that I would go in search of Honne Gowda. I had not yet taken meals. I do not know whether my father had taken his meals. I was at home from 6 P.M. My father and myself - live in the same house. I did not take any one with me. When I left home my father was not at - home. I had seen him previously at midday meal time, and not after that. I did not meet my father even after my return from the Railway Station. I saw my father at the corpse when I went there for the inquest. I went for the inquest of my own accord. When I left home my object was to go near the Railway gate. I know the Station Master's quarters. The foot path is beyond the quarters. There is no aloe hedge at any place between the foot path and the quarters. Sleepers are erected on both sides of the platform up to the end. There is a foot path between the Station building and the station master's quarters from the Settihalli end of the platform to the Katte. When I heard the cry I was just behind the station master's quarters, i.e., at a distance of twenty to thirty - yards from the back wall of the quarters. There are portions of aloe hedge here and there between the foot path and the said building up to the Katte. From the cry I heard I could not make out who was being attacked nor could I recognise the voice of the person who - cried out. I do not remember having told the Railway

Assistant

Assistant Superintendent of Police that I heard the cry that somebody has been beaten. I crossed the - hedge through an opening, went along the path which leads from where I was to the Booking office, came near the Booking Office and then proceeded along the foot path leading to the Katte. I did not see either light or people at the Station. I heard the cry coming from the west. The station is towards the south. I do not know Porter Thimmiah. I did not see whether there were people at the Station. I did not cry out for help. When I went behind the latrine I saw P.W. Helava running at a distance of about fifty yards away from me towards Settihalli side. It is from his voice that I recognised him to be Helava. I could not see him as the Station blocked my view. From the voice I could make out that he was running. There is difference between a person crying while he is standing in one place and when he is running and making the - cry. I did not cry out asking Helava as to why he was running away. When I first saw the deceased he was about twenty yards from me and four or five - yards from the mango tree towards Maddur side. The fourth accused had held the deceased by his arms. My uncle was standing still. He was not crying out. I went two or three paces forward. The other four accused were beating him with the instruments. I could well see the instruments. There was no shade of the tree obstructing my view. I saw each of them giving 2 or 3 blows. I stopped. I did not cry out for help. After the accused persons gave the blows, the fourth

accused

say how many were going. Then I recognised Helava but could not recognise any other person. I saw - Helava after I ran past the Booking office. I was very near the other end of the platform. There was a crowd of people coming behind, about 30 or 40 persons. I joined them. I did not tell any of them as to what I had seen. I did not speak to any one. I saw Muddachari and Dyava Heggade. I cannot name the others who were in the crowd. None of them questioned me anything. I went with them to the place of the corpse. At that place I spoke addressing no one as to what I had seen. As I was overpowered with grief, I did not beat my mouth. Even there I did not speak to any one nor did any one speak to me. Tears were - flowing from my eyes. Helava was near the corpse. He was telling people as to what had happened. Even then I did not say anything to any person. I cannot give the name of any person except the two whom I have mentioned and Helava, among those who were near the corpse. I went away while the Settihalli people were still - there. People from Settihalli were still coming by - batches. I went home out of grief and also for informing my people of the event. At the latrine I witnessed the assault for five minutes. From that time it was 20 minutes afterwards that I went home. I sat at the - corpse for only two or three minutes. On my return I - went by the path by the side of the Katte which joins - the main foot path behind the station. I went at walking pace. I met people of our village going to the spot. My brother, cousins and some others were going. None

of

them is a prosecution witness in this case. I told my brother, Kenche Gowda and Dodde Gowda, on the - way that all the six accused persons had murdered - Honne Gowda. When I reached my village most of the elderly people had left for the spot. After that it was only at 10 or 11 A.M. on the following day that I went to the spot. I learnt from people that the Police were holding inquest and then I went to the spot. In the early morning it occurred to me that I should - inform the Police. But as I was not sure that the - Police had come I stayed away. Kenche Gowda and one Maranke Gowda who is not the prosecution witness told me that inquest was being held. When I went to the - spot the Police were recording statements. I stated - to the Railway A.S.P. that the sixth accused prompted the others to beat Honne Gowda and also to beat me. I did not state that the fourth accused had clasped the deceased round his body. My uncle had fallen down about two minutes before the 2 or 3 accused turned towards me. He fell down at a distance of about 4 yards from the mango tree towards Maddur side. I do not know if I stated to the A.S.P. that he fell down under the tree nor whether I stated that Settihalli people were met by me near the Station Master's quarters nor that I went with them from there. At the inquest I volunteered myself as a witness. From the morning it was in my mind that I should make my statement to the Police. To the A.S.P. I stated that the blows were given with

Re-examination:- I was so much agitated in my mind

that

that I could not say to the Settihalli people as to what I had seen. The point in the foot path that - joins the railway line towards Settihalli is beyond - the platform.

By Court at the suggestion of Mr.Venkatapathiah:-

I was a co-accused in the rioting case.

Read over and admitted correct.

Sd.G.Sathyaji Rao,
Sessions Judge.

25-10-1927.

Deposition of Malle Gowda, Prosecution Witness No.23:-

Father's Name.	Malle Gowda.
Age.	35.
Caste.	Vokkaligar.
Occupation.	Agriculture.
Residence:	Settihalli.

On affirmation.

My house is the last in the street towards the Railway Station. Patel Honne Gowda died on Friday night about 4½ months ago. I was seated in my angala after taking night meals. I heard cry from the direction of the Railway Station "ಶಿವಮೊಗ್ಗ". In the street people were going stating that some person was shouting at the Railway Station. I went along with them. I went near the Railway gate. Chenna of my place was standing at the gate. I asked him from which direction the cry came. He replied that it was from the direction of the Station. Then myself and Chenna ran in that direction. P.W.Helava came to the end of the platform on the Chennapatna side crying out as stated above. I asked him as to who had murdered the person. He said that Mudigere Honne Gowda had been murdered, that he knew everything and that he would state. Then, Linga, Rama, Thikkala Kada, Hanumi Kada, Guttala Gowda and Avverahalli Chennegowda were named by him as having murdered Honne Gowda. I asked him to show the place. He took us to the other end of the

platform

platform on the Mysore side and turned to the path which leads to Mudigere. There was a mango tree and aloe hedge. We saw the corpse of Honne Gowda lying to our left. I called his name. He was dead. There was an injury on his right cheek and all his person was bloody. Then, Helava asked me to give information at Mudigere. None of the people there wished to carry the information. So, I went to Mudigere followed by Chenna. I went to the deceased's house and informed Thibbe Gowda that his brother had been murdered. He beat his mouth and came out. Thence I went to the - Railway Station. A crowd was collected near the corpse and Helava was also there. Then I went home. The Police examined me on the next morning. I did not examine the person of the deceased closely as the scene - was too ghastly. There was moonlight when I went to - the corpse.

Cross-examined by Mr.Venkatapathiah:- My deceased sister was Venkate Gowda's wife. Her son is Venkatappa My other deceased sister was the wife of Venkata Gowda's brother Venkatiah. My other sister is the wife of Chitake Gowda of Chakkere. I do not know P.W.21 Chenne Gowda - sitting in Court. I did not know Subbe Gowda of - Chakkere. There was a cirminal case against me and - others in which we were charge sheeted for murder of Dase Gowda of Settihalli. My brother was one of the accused. I was discharged by the committing Magistrate. My brother was committed to the Sessions. I was told that he was imprisoned for two years. In that case the 4th accused Linga was examined as a P.W. I do not know - that

that there is enmity from a long time between the 6th accused and Thittamaranahalli Venkate Gowda. I do not know there is any Mutt at Abboor nor any - litigation in connection with the Mutt properties in which Thittamaranahalli Venkata Gowda is a - defendant, nor whether the sixth accused has been cited for plaintiff. I am friendly with the sixth accused who is our Nadu Gowda. There is Sidde - Gowda's son Kale Gowda at Settihalli. There was a petition by our villagers to the sixth accused asking him to hold enquiry in the matter of the said - Kale Gowda having been spat upon by a Mussalman - of Bangalore I was one of the signatories. The sixth accused did not examine me in that connection. The sixth accused rejected our petition on the - ground that there was not sufficient evidence. I attended enquiry on one day. My brother-in-law Thittamaranahalli Venkate Gowda did not come to the Railway Station in his motor car on the night of the occurrence. There is cart road branching off at Mathikere and coming to a place opposite the Railway Station. Motor cars can go by this road. That place is very near the Railway line. Venkate Gowda did not come to the place of inquest even on Saturday morning. On Saturday I went to the spot at about 9 A.M. I stayed there for a short time, i.e., until the train from - Bangalore came. Police Officers were making some record. There were many people assembled. I do not - know whether Helava was there or not. There are 10 or 20 houses between the Railway gate and my house. None of my neighbours went with me to the gate. Chenna -

alias

alias Ballakki was the only person standing at the gate. He was looking at the station. By that time no one had proceeded to the station. When I left - home people were going in the street towards the Station. When I went to the gate people were coming - very near the gate. There were 7 or 8. A crowd - was following behind. The 7 or 8 persons were S.M. Putte Gouda, Chickka Putte Gowda and others. They were all of my village. From the gate I went in advance of the others. The others ran behind me. I met Helava as he came 2 maroos from the end of the erected sleepers At that time the others were about fifteen feet behind me. They were nearing me as I was conversing with - Helava. It was at that place that Helava mentioned the the names of the accused persons. Then, the others has come one maroo behind me. After that myself, Chenna, and Hebala ran to the spot and the others were coming behind. I asked Helava whether there were any others. He replied that he could not say whether there were - others beyond the hedge. He did not say that there - were others whose names he could not give as he was - tired. I heard portion of my deposition before the - lower Court read out and explained to me. I stated there as contained therein, viz., that Helava stated that there were several others whose names he could - not say as he was very much tired. After moving from that place I did not ask Helava to give the names of the others nor did he mention other names. It is from the place of corpse that I went to Mudigere. At the place of the corpse Helava did not name the accused - persons as being the murderers until I left the place. Helava was near the corpse until I left for Mudigere.

He

Translated and admitted correct.

Sd.G.Sathyaji Rao,

27-10-1927. Sessions Judge.

28-10-1927:-

Witness re-called for further corss-examination:-

On affirmation.

Ballakki was not attending the committing court as a witness during the inquiry there. I do not - remember if I stated to the Inspector and A.S.P. as to my having met Ballakki at the gate. I did not - state to Assistant Superintendent of Police that - Helava gave out the names of the accused persons only after I went to the corpse and called Honne Gowda by name to rouse him up. I stated to the Assistant - Superintendent of Police that when I went to the Railway gate I heard cries from the direction of the Railway platform as "come quickly; somebody has been murdered." I stated then that myself and Chenna ran - after we heard the cry. I did not say that all of us ran. I did not ask Ballakki how long he had been standing at the gate.

Re-examined:- The murder case referred to above was 8 or 9 years ago. By what Helava said I understood that the 6 accused persons were among the murderers. -

This

Deposition of Chickka Putte Gowda, Prosecution Witness No.24:-

Father's Name	Putte Gowda
Age	35
Caste	Vokkaligar
Occupation	Contractor
Residence	Settihalli.

On affirmation.

I knew deceased Honnegowda. I saw him last on the 10th of June at Settihalli on the pial of the temple at about 6 P.M. While I was seated on the pial the deceased and Helava came there from Byrapatna side. He asked for S.M. Putte Gowda. I dolt him that he had gone to his land. So, the deceased sat awaiting the coming of S.M.Putte Gowda. Helava also sat there. S.M. Putte Gowda is my brother's son. There is only one house between my house and his. We all sat there till 7 or 7-30 P.M. Then S.M.Putte Gowda came there. The deceased said that he was waiting for him to converse about kandayam amount. The deceased and S.M. Putte Gowda spoke about kandayam and got up when myself and S.M.Putte Gowda asked the deceased for meals. He declined invitation as he had to return to his village. He and S.M.Putte Gowda went towards Railway gate. I went home. It was then about 8 P.M. While I was taking meals it was stated in the street that some shouting was heard. I came out. I saw people running towards the Station. I went there. Some one stated at the station that Honne Gowda was murdered. Myself, S.M.Putte Gowda, Kale Gowda and Ballakki were among

among those who went to station. It was at the gate that I met Ballakki alias Chenna. We went to the place where the corpse was lying. I made enquiry about the person who was with the deceased I found Helava - there. I asked him who were the murderers. He stated that Linga, Rama and Hanumi Kada were present. Among the accused persons I can only identify the 4th accused, as Linga. I do not know any of the other accused persons except the sixth accused. I stayed there a short time and returned to my place. I was examined by the Police on the following day. After Helava left the temple pial I saw him only near the - corpse and nowhere else. The 6th accused is Nadu Gowda for our community at Settihalli and other villages.

Cross-examined by Mr.Venkatapathiya:- I was sitting on the pial which is near the village gate as I - had to engage Holeyar coolies who were expected to pass that way. I was alone on the pial until the deceased and Helava came. S.M.Putte Gowda had gone to his land which is 1½ furlongs from the village on the way to Matikere. The land is between the oni and Mathikere road. - That land is called Oorammudala Hola. The land is - visible to the oni. The land is about half a furlong from the road. There is hedge only on one side of the oni. There is no hedge on the side where the field is situated. It is the same oni which leads from Settihalli to Byrapatna. There is a smaller Railway gate - near Dombara Hola i.e., higher up the main gate towards Chennapatna side. If one comes from the tank bund

he

he has to go by the smaller gate to reach the Railway line. There is another road from Byrapatna to Mudigere via the tank bund which is higher up the oni route. The route via the tank bund is the nearer one from Byrapatna to Mudigere. From Byrapatna as we go southwards the first foot path to Mudigere is the one which passes over the tank bund. I take up road contracts. The road which branches off to go to Settihalli is about four furlongs south-wards, towards Mathikere. The first branching off is at half or three-fourths furlong from Byrapatna. People take both the paths to go to Mudigere. People who have work at Settihalli take the second route. The deceased did not ask me to send for S.M.Putte Gowda from his land nor did I send any one. Helava was seated two yards away from the deceased on the pial. People were passing by while we were on the pial. No passer-by spoke to the deceased. There is Kootakal Gowda in our village in the house adjoining the temple. He was at home that day. He did not come to the pial. The pial is visible from his house front. I saw Helava going into the village towards that side. I do not know to whose house he went. I have also lands at Mudigere. There was zid between Kodakal Gowda and the deceased from 7 or 8 years. Kootakal Gowda has a land belonging to Mudigere known as Gosanakatte Hola. The 2 sons of Kootakal Gowda were convicted in a murder case. One of them has been released. The murdered person was Anki Dase Gowda. After S.M. Putte Gowda came there they did not sit long. I sat for meals about fifteen minutes after I went

went home. Ballakki's house is between my house and the Railway gate. As I was going to the gate Ballakki came from his house and joined us. We - all went to the Station. He is the only man known as Chenna alias Ballakki. His father is Eare Gowda. This Chenna was P.W. in the Committing Magistrate's Court. About 50 or 100 people came to the Station. Ballakki was one of them. It was about 10 P.M. when I returned home. When we went to the corpse there - were already 20 or 30 persons there. I do not know to which place they belonged. I went to the Railway Station again at midnight or 1 A.M. This was because I could not get sleep. I saw the Inspector and 2 constables. I saw Thittamaranahalli Venkate Gowda there. The Patel of my village and Helava were also there. They were all seated on the platform. I stayed there for half or three fourths of an hour. After that I went there at inquest proceedings on the next-day. My stated was taken. P.W.23 Malle Gowda was also present at the inquest while we were being - examined. I mentioned in my statement at the inquest that I enquired of Helava and he mentioned the three names. (Here there is discussion whether the witness can be asked to refresh his memory by what he stated at the time of the inquest. Mr.Venkatapathiah relies on Section 159 Evidence Act. The witness may refresh his memory by reading his statement). I read my statement at the inquest. I do not find anything as to my having asked Helava regarding the murderers. The A.S.P took down my statement on the 3rd day after the occur-

-rence.

house to railway gate.

Translated and admitted correct.

Sd.G.Sathyaji Rao,

28-10-1927 Sessions Judge.

we learnt that the cry came from Helava. He was at the station. There we learnt that Honne Gowda had been murdered. We went to the place of corpse. I saw the corpse and came back forty or fifty - yards on the platform. There I asked Helava about the murderers. Chennegowdana Ninga, Rama, Hanumi Kada and Hanumi Dyava were the names given by the Helava as the murderers. I point out the third, fourth and the fifth accused persons as the first three named by Helava. The fourth, Dyava is not before Court. I was examined on the following day by the Police.

Cross-examined by Mr.Venkatapathiah:- I have lands at Mudigere. It is for those lands that the deceased demanded kandayam. I knew the deceased - from hisboyhood as we were friends. There is one Honnegowda, son of Honney Gowda, at Mudigere. Myself and Thittamaranahalli Venkate Gowda are friends from some years. I had gone to Ooramundala Hola - which is two or three furlongs from my village. I went there at about 2 P.M. as servants were working. I was there till I returned home. I stayed talking to the deceased at the pial only for five or six - minutes. From temple to the Railway gate it is one furlong. I might have stayed at the gate only for 2 minutes. I go to Mudigere frequently. I have gone alone and also with the deceased. To go to Mudigere, the nearest path is that which goes behind the station. I saw the deceased and Helava take a turn towards the railway line. I did not see which route - they took. When I went to the corpse there were 30

or

or 40 people of Settihalli there. After leaving Helava at the gate I spoke to him only after seeing the corpse and on the platform. Some people stood at the station and some went up to the corpse. Chick Putte Gowda and Mallegowda came to the corpse along with me. They were present when I questioned Helava after returning from the site of the corpse to the platform. In my presence none else questioned Helava. All of them heard what he stated. I stayed at the station till mid-night along with Mallegowda and Chickputtegowda. Patel Kale Gowda was coming and going. I was not present when the Inspector came. I had gone home then. I came again to the station when I saw the Inspector. My statement was taken at the inquest and after that by the A.S.P.

Re-examined:- The two turned towards the Railway Line from the gate, i.e., towards path going to Mudigere. That way leads to the platform which must be traversed. The corpse was beyond the other end of the platform in the same path going towards the katte.

Further cross-examined:- I know Mari Anke Gowda of Mudigere. He came to the station that night. He came about half an hour after I went there. Patel Kale Gowda sent for Marianke Gowda.

Translated and admitted correct.

Sd.G.Sathyaji Rao,
Sessions Judge.

28-10-1927.

Deposition of Kale Gowda, Prosecution Witness No.26:-

Father's Name.	Boregowda.
Age.	35
Caste	Vokkaligar.
Occupation.	Agriculture and patel of Settihalli.
Residence:.	Settihalli.

On affirmation.

I am patel of Settihalli. I knew the deceased Honnegowda. He died on Friday. the 10th of June. I was at home at 8 or 8-30 P.M. I heard some galata sound coming from the station. Myself and many people of our village went there, that is to the station. We passed the station and went neat the corpse when people of Mudigere also came there. When I went to the Railway Station gate there were many people of my village. Thence we went to the station. As there was galata I could not make any enquiry. I stood quiet for some time apart from the crowd. After some time the galata quieted, and I saw Mari Ankegowda coming out of the crowd. This was half or three-fourths of an hour after I went there. I asked him I sat outside the crowd after inspecting the corpse. I asked Mariankegowda as to who had murdered the deceased. He said he knew nothing, but he would bring Helava who was with the deceased. Helava did not come for some time. After my urging Marianke Gowda went into the crowd and he brought Helava. I questioned Helava. He said Ninga, Rama, Kada, Hanumi

Kada, and

Guttalá Gowda struck the deceased with "ಕತ್ತಿ" and "ಬಡಿಗೆ" and murdered him. He said that all the five were people of his village. I pointed out the first five accused persons as the persons named by him. I was going to my village to write report. I went as far as the sign post when Helava and Mariankegowda came running to me and said that they had forgotten to mention a sixth - name, which I should also insert in my report. They said that the sixth man also belonged to Mudigere and his name was Chennegowda. I went to my village, wrote the report, Ex.P.11 and despatched the same through - the toti to the Inspector at Channapatna. I wrote it 10-30 or 11 P.M. I read the report. The Police Inspector came at 12 or 1 A.M. (Here Public Prosecutor - wants to treat the witness as a hostile witness on the ground that he has departed from the general prosecution story in some particulars. In my opinion this is no reason to treat the witness as hostile although it is brought to my notice has permitted the prosecution to treat this witness as hostile. I cannot grant the permission required). The sixth accused is Madu Gowda for our community including myself. I am not related to S.M.Puttegowda nor to Chickka Putte Gowda. The 6th accused is Nadu Gowda for them and also for people of our community in our village and in other villages. - When the 2 persons came to me at the sign post it is - Helava who told me that he had forgotten to mention the name of a sixth person. In report I did notmention - that the 6th man was given as a second instalment from Helava.

Cross-examined by Mr.Venkatapathiah:- Marianke Gowda is also called Anke Gowda. The deceased was my

friend

friend from a long time. After Mari Anke Gowda came to me he said he would bring Helava. I waited a - quarter of an hour, the coming of Marianke Gowda. As he did not come I went in search of him. There were thirty or forty people of Mudigere assembled near - the corpse. Helava was there. How can I say about their conversation with each other? We have been - supplied with printed books ~~with~~ in triplicates for writing reports. I did not use the printed form for this report. I do not remember having used printed form for any report of mine. There is school master Bhoganna near my house. I did not get him to write report that night on a printed form, ~~[illegible]~~ and reports written on plain paper. Helava mentioned - "and others" after mentioning the names. I did not ask him who the others were nor did he tell me their names. I was at the station when the Inspector came. I saw Venkate Gowda at the Railway station. He was talking to the Inspector. Helava and Mari Ankegowda were there. The Inspector had brought my report which he read out to me. I was at the station until morning. A Mahomedan Sub Inspector who was examined in the - lower Court and some constables had come with the Inspector. I did not write any report on printed form nor was any such report suppressed. The Inspector did not take down my statement that night nor on the following day. My statement was taken four or five days afterwards at Chennapatna by the Railway A.S.P. The Inspector wanted Helava. I asked Mari Ankegowda to bring - him. He brought Helava. P.W.23 Mallegowda is my - friend. I am not acquainted with the hand-writing of the deceased.

Re: examination:-

As Inspector read out the report I took it that it was my report. I did not take it to my hands and read it.

Translated and admitted correct:

Sd.G.Sathyaji Rao,

28-10-1927. Sessions Judge.

Deposition of Anke Gowda alias Mari Anke Gowda, Prosecution Witness No.27:-

Father's Name.	Chenne Gowda.
Age.	41
Caste.	Vokkaligar.
Occupation.	Agriculture.
Residence.	Mudigere.

On affirmation.

I knew Honne Gowda. He has married the daughter of an agnate of mine. He died on the 10th of June. That day the Shekdar came to my village at 3 P.M. and conducted a sale. It continued till 5 or 5-30 P.M. Many villagers including the first accused, Guttale Gowda, the shanbhogue and myself were present. The Shekdar said that there was a petition by the first accused and so he asked the deceased to send for - Thibbegowda. The deceased Honne Gowda said that - Thibbegowda was absent from the village and he would send for him as soon as he returned. The Shekdar - said that it was late and so the 1st accused should put his thumb mark on his petition. The Shekdar - said that the notice should be proclaimed by beat of drum. After some time the Shekdar, the Shanbhog, the deceased Patel and Shekdar's peon went away towards Settihalli. I went home. Half of the land - which was sold was in my possession. I was asked to sign the sale proceedings. As the sale included my half also I said I had takarar and so I would not - sign. At about 9 P.M. I took meals and was going to my other house when people stated that Honne Gowda had been murdered. I went to the scene of murder at about 9-15 p.m.

9-15 P.M. I saw the corpse. There were cuts all over the body. I asked the people there as to who the murderers were. They referred me to Helava - who was with the deceased. Helava was seated at - some distance. I asked him. He said that Linga, Rama, Kada, Thikkala Kada, Guttalegowda, and Avverahalli Chenne Gowda had murdered the deceased. He said that the patel had come to whom he had reported everything. After that I went to the Station - telegraphed to I.G. of Police, Deputy Commissioner and to the Superintendent of Police. That night I was at the station. The Inspector came just after mid-night. Inquest on the body was held on the following day. There are many going by the name of - Chenne Gowda in my village. None of them had any - zid towards the deceased. There is no Chenne Gowda, who is on the side of the 6th accused and opposed to the deceased. I know Thittamaranahalli Venkate Gowda. He is in Court producing the documents - required by the defence.

Question:- Did he come to the Station that night?

He did not come. The 6th accused Avverahalli Chennegowda is a Nadu Gowda at about 18 or 20 villages. I am acquainted with his hand-writing. I see the signature shown to me in Ex.P.4 (a). It is the signature of the 6th accused. (Public Prosecutor questions the witness about any relationship between Patel Kale Gowda and the 6th accused. Mr. Venkatpathiah objects on the ground that the question

tends

tends to impeach the credit of the witness Kale Gowda. Public Prosecutor answers that that is - not his purpose and his purpose is to supply some omission. The question is harmless. I allow the same).

Patel Kale Gowda's sister's daughter is married to 6th accused's wife's brother. Patel Kale Gowda's sister's husband H.Putte Gowda is a cousin of Chicka Putte Gowda and S.M.Putte Gowda. H.Putte Gowda is come as a defence witness.

Cross-examined by Mr.Venkatapathiah:- The cousinship of these three persons is of a second degree. Chicka Putte Gowda's father was Putte - Gowda. I do not know his father. I do not know the father of H.Putte Gowda. I had not known the name of the grand-father of S.M.Putte Gowda nor the name of the grand-father of Chicka Putte Gowda. I do not know how these two are related to H.Putte Gowda's father. S.M.Putte Gowda's grand-father and Kootakal Gowda were brothers. S.M.Putte Gowda's grand-father is the same as Chicka Putte Gowda's - father. The sixth accused's wife's brother is - Lingiah. He is of Koloor. His native place is - Kolar. I know that Muddalinge Gowda of Koloor was the father-in-law of the sixth accused. Muddalinge Gowda had four sons whose names I do not know. Patel Kale Gowda's sister is said be Manchamma. I do not know the name of her daughter. Thittamaranahalli - Bore Gowda (P.W.22) is my father-in-law. My sister is married to Dyaviah, the brother of the deceased.

Dyaviah's

Dyaviah's daughter is married to Ramiah of Byrapatna. Helava (P.W.15) is my distant cousin. There is a - house belonging to himself and myself. I do not know if the sister of Rama of Byrapatna is married to the brother of P.W.16 Kada. I did not see Rama of Byrapatna in Court since the date of the trial of this case. I had filed a suit against Lingamma, the widow of Thibbe Gowda, on a Pro Note for Rs.1,000/- amd - odd executed by her husband. I was not set up by - the deceased to file the suit. My suit was dismissed with costs. I have paid up the costs amounting to Rs.120/-. I do not remember whether Magenahalli - Linge Gowda was my witness in that suit. I do not - know that Linge Gowda is the sister's husband of Thittamaranahalli Venkate Gowda. When Lingamma produced a will before the Sub Registrar for registration one Chennamma contested and I was witness for her. Chennamme was the first wife. That Chennamma has married a second husband and has son by him. In the Committing Court there was a lawyer helping the Prosecuting Inspector. I do not know that Thittamaranahalli Venkate Gowda has retained a lawyer in this Court to help the Public Prosecutor.

Further cross-examination reserved.

Translated and admitted correct.

G.Sathyaji Rao,
Sessions Judge.

29-10-1927.

29-10-1927:-

Witness re-called for further cross-examination:-

On

On affirmation.

As people of my village were going I went with him to the Station. They were saying that Honne - Gowda had been murdered near the Station. I cannot say who gave me the information. I was examined by the Police Inspector at the inquest once and subsequently at Chennapatna. I stated at Chennapatna that people were saying that there was galata at the station and so I went with them. About 50 or 60 persons went there from my village with me. I can't give their - names. There were many people of Settihalli and of our place numbering over 200 present when Helava gave me the details. At the inquest I stated to the Inspector the names of all the six accused persons as having been given to me by Helava. I have also stated the descriptions of the accused persons as stated to me byHelava. I signed that statement. I stayed at the - Station the whole night and till evening on the next day when the body was taken away for burial. It was four or five days after the burial that I was sent for by the Inspector to Chennapatna. It was the A.S.P. that took down my statements while the Inspector was questioning me. So far as I remember my statements were taken down only twice, once at the inquest and secondly at Chennapatna before A.S.P. I do not remember having stated "and others" after giving the names of the 6 accused - persons. Helava did not tell me that there were others besides the 6 accused. Helava told me that they hit the deceased with and I stated the same thing to the Inspector. I spent Rs.7½ for the urgent telegrams that night. I sent only the three telegrams. I did not

not see Settihalli patel when I went to the station. Helava was seated five or six maroos from me when I saw him at the time when the Inspector came. A land of the 2nd accused was sold and the Bank purchased it. I purchased the land from the Bank. Kempa Anka (P. W.17) is not related to me.

Re-examination:- Nil.

Further Cross-examination:- I see the document Ex.D.7 shewn to me. It is in the writing of the deceased and also signed by him. I see Ex.D.8 series. All the five are all in the writing of the deceased.

Re-examined:- I sent telegrams so that Police Officers might come early.

Translated and admitted correct.

Sd.G.Sathyaji Rao,
Sessions Judge.

29-10-1927.

Exhibit P.10.

Initialled G.S.
S.J.

Mysore Railways.
(Posts, Telegraphs)

Office of Origin, Date and Service Instructions:- Handed at Settihalli, M.R.1-4-27.

Words:- 23. Received at 22-55. From Settihalli 2.

By X.K, 10-6.

From Anke Gowda.

To Assistant Superintendent of Police,
Chennapatna, M.R.,

Honne Gowda of Mudigere murdered near Settihalli Station. Come to the spot immediately.

Received at Kankanahalli Camp at 9-40 A.M.

Sd.....
11-6-17.

Forwarded to A.S.P.Railways and C.I.D. Bangalore as per Rule 516 of Police Manual Vol.I. Jurisdiction comes under "Railway limits" as is announced by the Station Master, Settihalli, in his message X.R, 10th June 1927 sent along with this.

Channapatna, Sd.....
11-6-27, 10-15 A.M. A.S.P.

Ex.P.8 in C.C.No.238 of 1926-27.
Dated 14-7-1927,
Magistrate.

Exhibit P.11.

Initialled G.S., S.J

To

The Inspector of Police,
Chennapatna Taluq.

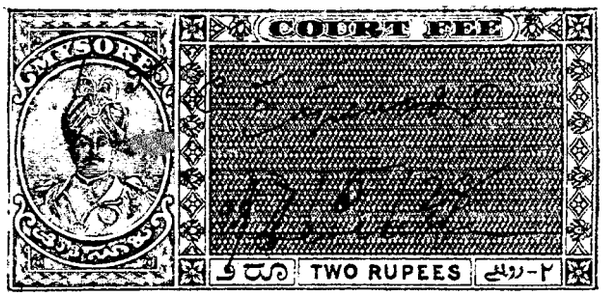
Report of Kale Gowda, Patel of Settihalli of the same Taluq.

This night at about 8-30, much noise was heard in the direction of the station. "What is this? much noise," so saying, myself and the people of our village went there. Helava who was there told us "while myself and the deceased Patel Honne Gowda -we both- were going in the way of Mudigere Bannada Katte, Ninga, Rama, Kada, Kada, son of Hanumi, Guttala Gowda, Chenne Gowda and others beat Honne Gowda with Kodali and Machus and he is dead." Hence I have reported the matter.

Sd.Patel Kale Gowda,
10-6-1927.

Received 10-6-1927, at 11 P.M. by Thoti.

(Ind) Abdul Rawoof,
Sub Inspector.



ಕೋರ್ಟ್‌ಗೆ

½ — ನೇ ನಂಬರು

ಅರ್ಜೀದಾರರ್

ಪ್ರತಿವಾದಿಯಾ ಅಫಾನೇಟ್ಸ್

V. S.

ಪು॥ ರಾ॥

ಬರಸಿಕೊಟ್ಟ ಭಕಾಲತನಾವು

ಈ ಮೊಕದ್ದಮೆಯಲ್ಲಿ ತಾವು ನನ್ನ ಪರವಾಗಿ ಅಖೈರುವೆರಿಗೂ ಕೋರ್ಟಿನಲ್ಲಿ ವಿವಾದ ಜರಗಿಸು ವುದಕ್ಕೂ, ನನ್ನ ಪಂಆಗುವ ಎಲ್ಲಾ ವಿಧವಾದ ಆರ್ಡರಿನೂ ಡಿಕ್ರಿಯನ್ನು ಜಾರಿಕ್ಕೆ ನಡಿಸಿ ಹಣ ವಸೂಲು ಮಾಡಿಕೊಳ್ಳುವುದಕ್ಕೂ, ನನಗೆ ಕೋರ್ಟಿನಿಂದ ಸಲ್ಲಬೇಕಾಗಿರುವ ಡಿಕ್ರಿ ಮೊಬಲಗು, ತಿಲ್ಕ ಮೊಬಲಗು ಸಹ ಪಡಿಯೀಕ್ಕೂ, ದಸ್ತೈವೆಜು ವೆಗೈರೆಗಳನ್ನು ವಾಪಸು ಪಡಿಯುವಿಕ್ಕೂ ಸಹ ತನಿಗೆ ಈ ಮೂಲಕ ಸಂಪೂರ್ಣ ಅಧಿಕಾರ ಕೊಟ್ಟಿದ್ದೇನೆ. ಆಲ್ಲದೆ ತಾವಾಗಲಿ ಯಾ ತನುಗೋಸ್ಕರ ಮತ್ತೊಬ್ಬ ಲಾಯರಾಗಲಿ ಟಿಟೋ ಮೊಕದ್ದಮೆಯಲ್ಲಿ ನಡಿಸುವ ಎಲ್ಲಾ ಕೆಲಸಗಳನ್ನು ನಾನು ಖುದು ಇವ್ವು ನಡಿಸಿದಂತೆ ಒಪ್ಪಿಕೊಳ್ಳಲು ಬದ್ಧನಾಗಿ ಇಧ್ದೇನೆ

ತಾರೀಕು 17-1-28 ರುಜು.

ಈ ಮೊಖ್ತಾರುನಾವೂ ಕೊಟ್ಟವರು ನೆನಗೆ ಪರಿಚಯಸರಾಗಿ ಸಮುಕ್ಷವು ರುಜುವೊಡಿರುತ್ತಾರೆ.

ಈ ಮೊಖ್ತಾರುನಾವೂ ಅಂಗೀಕರಿಸಿ ಇಧ್ದೇನೆ

ಬಕ್ಕೆವಸಳ ಬೆಂಗಳೂರು ಸಿಟಿ ಚಿಕ್ಕಪೇಟೆ ವಿಜ್ಯನಗರ ಬುಕ್ಕಡಿಪೋ, ಬಿ. ವರಸಿಂಹ್ಯಂಗಾರ್ಯರವರು ದೊರೆಯುತ್ತೆ

P.6994

5-703

22nd May 1928.

B.Nagappa, Bar-at-law,

The Registrar,
Chief Court of Mysore,
Bangalore.

I am directed to request that the records in Bangalore Sessions case No.3 of 1927-28 with the copy of the Judgment of the Chief Court may be sent for reference and return as a memorial praying for mercy has been filed before Government by the 6th Accused A.Channe Gowda.

I have the honour to be,
Sir,
Your most obedient servant,

Legal Remembrancer and
Secretary to Government Law Dep

5799 P 827 M68

Telgm:,
"JUSTICE"

CHIEF COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

Bangalore 25th May *192* 8

28

SA 12

R. O. C. No. Cr. 914.
Dis.
Encl: Trial record
Sent Separately

From

T. Singaravelu Mudaliar,
~~A. Sreenivasaragavachari~~, Esq., B.A., B.L.,
Registrar Chief Court of Mysore.

To

B. Nagappa, Esq., Bar-at-Law,
Secretary to Government,
Law Department, BANGALORE.

Sir,

With reference to your letter No.P.6994 dated 22nd instan I am directed to forward herewith records in Bangalore Sessions Case No.3 of 1927-28 on the file of the Sessions Judge, Bangalore, together with Criminal Appeal No.51 of 1927-28/ Criminal Referred Case No.3 of 1927-28 and Criminal Appeal No.72 of 1927-28 on the file of this court.

I have the honour to be,

Sir,

Your most obedient servant,

T. Singaravelu

REGISTRAR.

AAA

Fair copy
Leave 37-27-13 P.P. 148 of 6/7/28

To

C. Krishna Moorti, Esqr.,

Advocate, Bangalore.

Sir,

With ref. to the memorial for mercy dated 16-5-1928 submitted by you on behalf of Chenne Gowda, the 6th accused in Bangalore Sessions Case No. 3 of 27-28, who was convicted under Sec. 302 I.P.C. and sentenced to transportation for life in Cr.A. pn. No. 72 of 27-28 on the file of the Chief Court, ~~conviction and sentence for murder~~; I am directed to state that there are no special grounds for the interference of Government in the ~~matter~~ case and that the ~~memo~~ memorial is therefore rejected.

I have etc.,

Secretary to Govt., Law Dept.,

Copy of the above is forwarded to :-

(1) The Registrar, Chief Court for information. The records sent with his letter No.C.914 dated 25/28-5-1928, are herewith returned.

(2) The Superintendent, Central Jail for communication to the prisoner.

B.O.

Secy. to Govt., Law Dept.,

Records
pp 149-150
of 6/7/28